

By the Committees on Fiscal Policy; Comprehensive Planning,
Local and Military Affairs; Natural Resources; and Senator
Latvala

309-2166A-00

1 A bill to be entitled
2 An act relating to state regulation of lands;
3 amending s. 190.012, F.S.; authorizing
4 community development districts to fund certain
5 environmental costs under certain
6 circumstances; amending s. 197.432, F.S.;
7 conforming statutory cross-references; amending
8 s. 197.502, F.S.; authorizing local governments
9 to file tax deed applications in a specified
10 manner; amending s. 197.522, F.S.; conforming a
11 statutory cross-reference; amending s.
12 199.1055, F.S.; broadening the contaminated
13 site rehabilitation tax credit against the
14 intangible personal property tax to include in
15 the preapproved advanced cleanup program
16 petroleum-contaminated sites and other
17 contaminated sites at which cleanup is
18 undertaken pursuant to a voluntary
19 rehabilitation agreement with the Department of
20 Environmental Protection under certain
21 circumstances; amending s. 212.08, F.S.;
22 providing an exemption from the sales and use
23 tax for building materials used in the
24 rehabilitation of real property located in a
25 designated brownfield area; providing an
26 exemption from the sales and use tax for
27 business property purchased for use by
28 businesses located in a designated brownfield
29 area; amending s. 212.096, F.S.; providing for
30 a brownfield area jobs credit against the sales
31 and use tax; amending s. 212.20, F.S.;

1 providing for distribution of funds; amending
2 s. 220.181, F.S.; providing for a designated
3 brownfield area jobs credit against the
4 corporate income tax; amending s. 220.182,
5 F.S.; providing for a designated brownfield
6 area property tax credit against the corporate
7 income tax; amending s. 220.183, F.S.;
8 providing a partial credit against the
9 corporate income tax for community
10 contributions that benefit designated
11 brownfield areas; amending s. 220.1845, F.S.;
12 broadening the contaminated site rehabilitation
13 tax credit against the corporate income tax to
14 include in the preapproved advanced cleanup
15 program petroleum-contaminated sites and other
16 contaminated sites at which cleanup is
17 undertaken pursuant to a voluntary
18 rehabilitation agreement with the Department of
19 Environmental Protection under certain
20 circumstances; amending s. 252.87, F.S.;
21 revising reporting requirements under the
22 Hazardous Materials Emergency Response and
23 Community Right-to-Know Act; amending s.
24 288.047, F.S.; requiring Enterprise Florida,
25 Inc., to set aside each fiscal year a certain
26 amount of the appropriation for the Quick
27 Response Training Program for businesses
28 located in a brownfield area; amending s.
29 288.107, F.S.; redefining the term "eligible
30 business"; providing for bonus refunds for
31 businesses that can demonstrate a fixed capital

1 investment in certain mixed use activities in
2 the brownfield area; amending s. 288.905, F.S.;
3 requiring Enterprise Florida, Inc., to develop
4 comprehensive marketing strategies for
5 redevelopment of brownfield areas; amending s.
6 290.007, F.S.; providing for state incentives
7 in designated brownfield areas; amending s.
8 376.301, F.S.; redefining the terms
9 "antagonistic effects," "discharge,"
10 "institutional controls," and "site
11 rehabilitation"; creating s. 376.30701, F.S.;
12 extending application of risk-based corrective
13 action principles to all contaminated sites
14 resulting from a discharge of pollutants or
15 hazardous substances; providing for
16 contamination cleanup criteria that
17 incorporates risk-based corrective actions to
18 be adopted by rule; providing clarification
19 that cleanup criteria do not apply to offsite
20 relocation or treatment; providing the
21 conditions under which further rehabilitation
22 may be required; creating s. 376.30702, F.S.;
23 creating the Florida State-Owned-Lands Cleanup
24 Program; providing intent; directing the
25 Department of Environmental Protection to use
26 existing site priority ranking and cleanup
27 criteria; establishing limited liability
28 protection; amending s. 376.3078, F.S.;
29 providing for rehabilitation criteria; amending
30 s. 376.30781, F.S.; broadening the partial tax
31 credits for the rehabilitation of certain

1 contaminated sites; clarifying provisions
2 regarding the filing for the tax credits;
3 amending s. 376.79, F.S.; defining the terms
4 "contaminant" and "risk reduction"; redefining
5 the terms "natural attenuation," "institutional
6 control," and "source removal"; amending s.
7 376.80, F.S.; allowing local governments or
8 persons responsible for brownfield area
9 rehabilitation and redevelopment to use an
10 existing advisory committee; deleting the
11 requirement that the advisory committee must
12 review and provide recommendations to the local
13 government with jurisdiction on the proposed
14 brownfield site rehabilitation agreement;
15 providing that the person responsible for site
16 rehabilitation must notify the advisory
17 committee of the intent to rehabilitate and
18 redevelop the site before executing the
19 brownfield site rehabilitation agreement;
20 requiring the person responsible for site
21 rehabilitation to hold a meeting or attend a
22 regularly scheduled meeting of the advisory
23 committee to inform the advisory committee of
24 the outcome of the environmental assessment;
25 requiring the person responsible for site
26 rehabilitation to enter into a brownfield site
27 rehabilitation agreement only if actual
28 contamination exists; clarifying provisions
29 relating to the required comprehensive general
30 liability and comprehensive automobile
31 liability insurance; amending s. 376.81, F.S.;

1 providing direction regarding the risk-based
2 corrective action rule; requiring the
3 department to establish alternative cleanup
4 levels under certain circumstances; amending s.
5 376.82, F.S.; providing immunity for liability
6 regarding contaminated site remediation under
7 certain circumstances; amending s. 376.84,
8 F.S.; authorizing entities approved by the
9 local government for the purpose of
10 redeveloping brownfield areas to use tax
11 increment financing; amending s. 376.86, F.S.;
12 increasing the limits of the state loan
13 guaranty in brownfield areas; creating s.
14 376.876, F.S.; providing for a Brownfield
15 Redevelopment Grants Program in the Department
16 of Environmental Protection; specifying the
17 uses of grant funds; requiring matching funds;
18 authorizing the department to adopt rules;
19 providing for interim application requirements;
20 creating s. 376.88, F.S.; providing for the
21 Brownfield Program Review Advisory Council;
22 providing duties and responsibilities; amending
23 s. 403.973, F.S.; providing that projects
24 located in a designated brownfield area are
25 eligible for the expedited permitting process;
26 amending ss. 712.01, 712.03, F.S.; prohibiting
27 subsequent property owners from removing
28 certain deed restrictions under other
29 provisions of the Marketable Record Title Act;
30 providing for implementation to the extent
31 funds are appropriated; repealing s.

1 211.3103(9), F.S.; deleting requirements for a
2 county that accepts real property of mined or
3 reclaimed land from phosphate mining companies
4 to forfeit a portion of its share of severance
5 tax equal to the value of property donated;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Subsection (1) of section 190.012, Florida
11 Statutes, is amended to read:

12 190.012 Special powers; public improvements and
13 community facilities.--The district shall have, and the board
14 may exercise, subject to the regulatory jurisdiction and
15 permitting authority of all applicable governmental bodies,
16 agencies, and special districts having authority with respect
17 to any area included therein, any or all of the following
18 special powers relating to public improvements and community
19 facilities authorized by this act:

20 (1) To finance, fund, plan, establish, acquire,
21 construct or reconstruct, enlarge or extend, equip, operate,
22 and maintain systems, facilities, and basic infrastructures
23 for the following:

24 (a) Water management and control for the lands within
25 the district and to connect some or any of such facilities
26 with roads and bridges.

27 (b) Water supply, sewer, and wastewater management,
28 reclamation, and reuse or any combination thereof, and to
29 construct and operate connecting intercepting or outlet sewers
30 and sewer mains and pipes and water mains, conduits, or
31 pipelines in, along, and under any street, alley, highway, or

1 other public place or ways, and to dispose of any effluent,
2 residue, or other byproducts of such system or sewer system.

3 (c) Bridges or culverts that may be needed across any
4 drain, ditch, canal, floodway, holding basin, excavation,
5 public highway, tract, grade, fill, or cut and roadways over
6 levees and embankments, and to construct any and all of such
7 works and improvements across, through, or over any public
8 right-of-way, highway, grade, fill, or cut.

9 (d)1. District roads equal to or exceeding the
10 specifications of the county in which such district roads are
11 located, and street lights.

12 2. Buses, trolleys, transit shelters, ridesharing
13 facilities and services, parking improvements, and related
14 signage.

15 (e) Investigation and remediation costs associated
16 with the cleanup of actual or perceived environmental
17 contamination within the district under the supervision or
18 direction of a competent governmental authority unless the
19 covered costs benefit any person who is a landowner within the
20 district and who caused or contributed to the contamination.

21 (f)(e) Conservation areas, mitigation areas, and
22 wildlife habitat, including the maintenance of any plant or
23 animal species, and any related interest in real or personal
24 property.

25 (g)(f) Any other project within or without the
26 boundaries of a district when a local government issued a
27 development order pursuant to s. 380.06 or s. 380.061
28 approving or expressly requiring the construction or funding
29 of the project by the district, or when the project is the
30 subject of an agreement between the district and a
31 governmental entity and is consistent with the local

1 government comprehensive plan of the local government within
2 which the project is to be located.

3 Section 2. Subsection (4) of section 197.432, Florida
4 Statutes, is amended to read:

5 197.432 Sale of tax certificates for unpaid taxes.--

6 (4) A tax certificate representing less than \$100 in
7 delinquent taxes on property that has been granted a homestead
8 exemption for the year in which the delinquent taxes were
9 assessed may not be sold at public auction but shall be issued
10 by the tax collector to the county at the maximum rate of
11 interest allowed by this chapter. The provisions of s.
12 197.502(4)~~s. 197.502(3)~~ shall not be invoked as long as the
13 homestead exemption is granted to the person who received the
14 homestead exemption for the year in which the tax certificate
15 was issued. However, when all such tax certificates and
16 accrued interest thereon represent an amount of \$100 or more,
17 the provisions of s. 197.502(4)~~s. 197.502(3)~~ shall be
18 invoked.

19 Section 3. Present subsections (2), (3), (4), (5),
20 (6), (7), (8), (9), (10), and (11) of section 197.502, Florida
21 Statutes, are redesignated as subsections (3), (4), (5), (6),
22 (7), (8), (9), (10), (11), and (12), respectively, and a new
23 subsection (2) is added to that section to read:

24 197.502 Application for obtaining tax deed by holder
25 of tax sale certificate; fees.--

26 (2) When a tax certificate that is 2 years old or
27 older exists against a parcel that is located within a
28 designated brownfield area under s. 376.80, the municipality
29 or county may file a tax deed application in the same manner
30 in which an application on a county-held tax certificate is
31 filed and processed under chapter 197.

1 Section 4. Paragraph (a) of subsection (1) of section
2 197.522, Florida Statutes, is amended to read:

3 197.522 Notice to owner when application for tax deed
4 is made.--

5 (1)(a) The clerk of the circuit court shall notify, by
6 certified mail with return receipt requested or by registered
7 mail if the notice is to be sent outside the continental
8 United States, the persons listed in the tax collector's
9 statement pursuant to s. 197.502(5)~~s. 197.502(4)~~ that an
10 application for a tax deed has been made. Such notice shall
11 be mailed at least 20 days prior to the date of sale. If no
12 address is listed in the tax collector's statement, then no
13 notice shall be required.

14 Section 5. Subsection (1) of section 199.1055, Florida
15 Statutes, is amended to read:

16 199.1055 Contaminated site rehabilitation tax
17 credit.--

18 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

19 (a) A credit in the amount of 35 percent of the costs
20 of voluntary cleanup activity that is integral to site
21 rehabilitation at the following sites is allowed against any
22 tax due for a taxable year under s. 199.032, less any credit
23 allowed by s. 220.68 for that year:

24 1. A drycleaning-solvent-contaminated site eligible
25 for state-funded site rehabilitation under s. 376.3078(3);

26 2. A drycleaning-solvent-contaminated site at which
27 cleanup is undertaken by the real property owner pursuant to
28 s. 376.3078(11), if the real property owner is not also, and
29 has never been, the owner or operator of the drycleaning
30 facility where the contamination exists; ~~or~~

31

1 3. A brownfield site in a designated brownfield area
2 under s. 376.80; or-

3 4. Any other contaminated site at which cleanup is
4 undertaken by a person pursuant to a voluntary cleanup
5 agreement approved by the Department of Environmental
6 Protection, if the person did not cause or contribute to the
7 contamination at the site.

8 (b) For all applications received by the Department of
9 Environmental Protection by January 15, if, as of the
10 following March 1, the credits granted under paragraph (a) do
11 not exhaust the annual maximum allowable credits under
12 paragraph (g), any remaining credits may be granted for
13 petroleum-contaminated sites at which site rehabilitation is
14 being conducted pursuant to the preapproved advanced cleanup
15 program authorized in s. 376.30713, but tax credits may be
16 granted only for 35 percent of the amount of the cost-share
17 percentage of site rehabilitation costs paid for with private
18 funding. Tax credit applications submitted for preapproved
19 advanced cleanup sites shall not be included in the
20 carry-forward provision of s. 376.30781(9), which otherwise
21 allows applications that do not receive credits due to an
22 exhaustion of the annual tax credit authorization to be
23 carried forward in the same order for the next year's annual
24 tax credit allocation, if any, based on the prior year
25 application.

26 (c)~~(b)~~ A taxpayer, or multiple taxpayers working
27 jointly to clean up a single site, may not receive more than
28 \$250,000 per year in tax credits for each site voluntarily
29 rehabilitated. Multiple taxpayers shall receive tax credits in
30 the same proportion as their contribution to payment of
31 cleanup costs. Subject to the same conditions and limitations

1 as provided in this section, a municipality or county which
2 voluntarily rehabilitates a site may receive not more than
3 \$250,000 per year in tax credits which it can subsequently
4 transfer subject to the provisions in paragraph (h)~~(g)~~.

5 (d)~~(c)~~ If the credit granted under this section is not
6 fully used in any one year because of insufficient tax
7 liability on the part of the taxpayer, the unused amount may
8 be carried forward for a period not to exceed 5 years.

9 (e)~~(d)~~ A taxpayer that receives a credit under s.
10 220.1845 is ineligible to receive credit under this section in
11 a given tax year.

12 (f)~~(e)~~ A taxpayer that receives state-funded site
13 rehabilitation pursuant to s. 376.3078(3) for rehabilitation
14 of a drycleaning-solvent-contaminated site is ineligible to
15 receive credit under this section for costs incurred by the
16 taxpayer in conjunction with the rehabilitation of that site
17 during the same time period that state-administered site
18 rehabilitation was underway.

19 (g)~~(f)~~ The total amount of the tax credits which may
20 be granted under this section and s. 220.1845 is \$2 million
21 annually.

22 (h)~~(g)~~ 1. Tax credits that may be available under this
23 section to an entity eligible under s. 376.30781 may be
24 transferred after a merger or acquisition to the surviving or
25 acquiring entity and used in the same manner with the same
26 limitations.

27 2. The entity or its surviving or acquiring entity as
28 described in subparagraph 1., may transfer any unused credit
29 in whole or in units of no less than 25 percent of the
30 remaining credit. The entity acquiring such credit may use it
31 in the same manner and with the same limitation as described

1 in this section. Such transferred credits may not be
2 transferred again although they may succeed to a surviving or
3 acquiring entity subject to the same conditions and
4 limitations as described in this section.

5 3. In the event the credit provided for under this
6 section is reduced either as a result of a determination by
7 the Department of Environmental Protection or an examination
8 or audit by the Department of Revenue, such tax deficiency
9 shall be recovered from the first entity, or the surviving or
10 acquiring entity, to have claimed such credit up to the amount
11 of credit taken. Any subsequent deficiencies shall be
12 assessed against any entity acquiring and claiming such
13 credit, or in the case of multiple succeeding entities in the
14 order of credit succession.

15 (i)~~(h)~~ In order to encourage completion of site
16 rehabilitation at contaminated sites being voluntarily cleaned
17 up and eligible for a tax credit under this section, the
18 taxpayer may claim an additional 10 percent of the total
19 cleanup costs, not to exceed \$50,000, in the final year of
20 cleanup as evidenced by the Department of Environmental
21 Protection issuing a "No Further Action" order for that site.

22 Section 6. Paragraphs (g) and (h) of subsection (5) of
23 section 212.08, Florida Statutes, are amended to read:

24 212.08 Sales, rental, use, consumption, distribution,
25 and storage tax; specified exemptions.--The sale at retail,
26 the rental, the use, the consumption, the distribution, and
27 the storage to be used or consumed in this state of the
28 following are hereby specifically exempt from the tax imposed
29 by this chapter.

30 (5) EXEMPTIONS; ACCOUNT OF USE.--

31

1 (g) Building materials used in the rehabilitation of
2 real property located in an enterprise zone or designated
3 brownfield area.--

4 1. Beginning July 1, 1995, building materials used in
5 the rehabilitation of real property located in an enterprise
6 zone, and, after July 1, 1997, in a designated brownfield area
7 under s. 376.80, shall be exempt from the tax imposed by this
8 chapter upon an affirmative showing to the satisfaction of the
9 department that the items have been used for the
10 rehabilitation of real property located in an enterprise zone
11 or designated brownfield area. Except as provided in
12 subparagraph 2., this exemption inures to the owner, lessee,
13 or lessor of the rehabilitated real property located in an
14 enterprise zone or designated brownfield area only through a
15 refund of previously paid taxes. To receive a refund pursuant
16 to this paragraph, the owner, lessee, or lessor of the
17 rehabilitated real property located in an enterprise zone or
18 designated brownfield area must file an application under oath
19 with the governing body or enterprise zone development agency
20 having jurisdiction over the enterprise zone or designated
21 brownfield area where the business is located, as applicable,
22 which includes:

23 a. The name and address of the person claiming the
24 refund.

25 b. An address and assessment roll parcel number of the
26 rehabilitated real property in an enterprise zone or
27 designated brownfield area for which a refund of previously
28 paid taxes is being sought.

29 c. A description of the improvements made to
30 accomplish the rehabilitation of the real property.

31

1 d. A copy of the building permit issued for the
2 rehabilitation of the real property.

3 e. A sworn statement, under the penalty of perjury,
4 from the general contractor licensed in this state with whom
5 the applicant contracted to make the improvements necessary to
6 accomplish the rehabilitation of the real property, which
7 statement lists the building materials used in the
8 rehabilitation of the real property, the actual cost of the
9 building materials, and the amount of sales tax paid in this
10 state on the building materials. In the event that a general
11 contractor has not been used, the applicant shall provide this
12 information in a sworn statement, under the penalty of
13 perjury. Copies of the invoices which evidence the purchase of
14 the building materials used in such rehabilitation and the
15 payment of sales tax on the building materials shall be
16 attached to the sworn statement provided by the general
17 contractor or by the applicant. Unless the actual cost of
18 building materials used in the rehabilitation of real property
19 and the payment of sales taxes due thereon is documented by a
20 general contractor or by the applicant in this manner, the
21 cost of such building materials shall be an amount equal to 40
22 percent of the increase in assessed value for ad valorem tax
23 purposes.

24 f. The identifying number assigned pursuant to s.
25 290.0065 to the enterprise zone or designated brownfield area
26 in which the rehabilitated real property is located.

27 g. A certification by the local building inspector
28 that the improvements necessary to accomplish the
29 rehabilitation of the real property are substantially
30 completed.

31

1 h. Whether the business is a small business as defined
2 by s. 288.703(1).

3 i. If applicable, the name and address of each
4 permanent employee of the business, including, for each
5 employee who is a resident of an enterprise zone or designated
6 brownfield area, the identifying number assigned pursuant to
7 s. 290.0065 to the enterprise zone in which the employee
8 resides.

9 2. This exemption inures to a city, county, or other
10 governmental agency through a refund of previously paid taxes
11 if the building materials used in the rehabilitation of real
12 property located in an enterprise zone or designated
13 brownfield area are paid for from the funds of a community
14 development block grant or similar grant or loan program. To
15 receive a refund pursuant to this paragraph, a city, county,
16 or other governmental agency must file an application which
17 includes the same information required to be provided in
18 subparagraph 1. by an owner, lessee, or lessor of
19 rehabilitated real property. In addition, the application must
20 include a sworn statement signed by the chief executive
21 officer of the city, county, or other governmental agency
22 seeking a refund which states that the building materials for
23 which a refund is sought were paid for from the funds of a
24 community development block grant or similar grant or loan
25 program.

26 3. Within 10 working days after receipt of an
27 application, the governing body or enterprise zone development
28 agency having jurisdiction over the enterprise zone or
29 designated brownfield area shall review the application to
30 determine if it contains all the information required pursuant
31 to subparagraph 1. or subparagraph 2. and meets the criteria

1 set out in this paragraph. The governing body or agency shall
2 certify all applications that contain the information required
3 pursuant to subparagraph 1. or subparagraph 2. and meet the
4 criteria set out in this paragraph as eligible to receive a
5 refund. If applicable, the governing body or agency shall also
6 certify if 20 percent of the employees of the business are
7 residents of an enterprise zone or designated brownfield area,
8 excluding temporary and part-time employees. The certification
9 shall be in writing, and a copy of the certification shall be
10 transmitted to the executive director of the Department of
11 Revenue. The applicant shall be responsible for forwarding a
12 certified application to the department within the time
13 specified in subparagraph 4.

14 4. An application for a refund pursuant to this
15 paragraph must be submitted to the department within 6 months
16 after the rehabilitation of the property is deemed to be
17 substantially completed by the local building inspector.

18 5. The provisions of s. 212.095 do not apply to any
19 refund application made pursuant to this paragraph. No more
20 than one exemption through a refund of previously paid taxes
21 for the rehabilitation of real property shall be permitted for
22 any one parcel of real property. No refund shall be granted
23 pursuant to this paragraph unless the amount to be refunded
24 exceeds \$500. No refund granted pursuant to this paragraph
25 shall exceed the lesser of 97 percent of the Florida sales or
26 use tax paid on the cost of the building materials used in the
27 rehabilitation of the real property as determined pursuant to
28 sub-subparagraph 1.e. or \$5,000, or, if no less than 20
29 percent of the employees of the business are residents of an
30 enterprise zone or designated brownfield area, excluding
31 temporary and part-time employees, the amount of refund

1 granted pursuant to this paragraph shall not exceed the lesser
2 of 97 percent of the sales tax paid on the cost of such
3 building materials or \$10,000. A refund approved pursuant to
4 this paragraph shall be made within 30 days of formal approval
5 by the department of the application for the refund.

6 6. The department shall adopt rules governing the
7 manner and form of refund applications and may establish
8 guidelines as to the requisites for an affirmative showing of
9 qualification for exemption under this paragraph.

10 7. The department shall deduct an amount equal to 10
11 percent of each refund granted under the provisions of this
12 paragraph from the amount transferred into the Local
13 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
14 s. 212.20 for the county area in which the rehabilitated real
15 property is located and shall transfer that amount to the
16 General Revenue Fund.

17 8. For the purposes of the exemption provided in this
18 paragraph:

19 a. "Building materials" means tangible personal
20 property that ~~which~~ becomes a component part of improvements
21 to real property.

22 b. "Real property" has the same meaning as provided in
23 s. 192.001(12).

24 c. "Rehabilitation of real property" means the
25 reconstruction, renovation, restoration, rehabilitation,
26 construction, or expansion of improvements to real property.

27 d. "Substantially completed" has the same meaning as
28 provided in s. 192.042(1).

29 9. The provisions of this paragraph shall expire and
30 be void on December 31, 2005.

31

1 (h) Business property used in an enterprise zone or
2 designated brownfield area.--

3 1. Beginning July 1, 1995, business property purchased
4 for use by businesses located in an enterprise zone that ~~which~~
5 is subsequently used in an enterprise zone or, after July 1,
6 1997, in a designated brownfield area under s. 376.80, shall
7 be exempt from the tax imposed by this chapter. This exemption
8 inures to the business only through a refund of previously
9 paid taxes. A refund shall be authorized upon an affirmative
10 showing by the taxpayer to the satisfaction of the department
11 that the requirements of this paragraph have been met.

12 2. To receive a refund, the business must file under
13 oath with the governing body or enterprise zone development
14 agency having jurisdiction over the enterprise zone or
15 designated brownfield area where the business is located, as
16 applicable, an application which includes:

17 a. The name and address of the business claiming the
18 refund.

19 b. The identifying number assigned pursuant to s.
20 290.0065 to the enterprise zone or designated brownfield area
21 in which the business is located.

22 c. A specific description of the property for which a
23 refund is sought, including its serial number or other
24 permanent identification number.

25 d. The location of the property.

26 e. The sales invoice or other proof of purchase of the
27 property, showing the amount of sales tax paid, the date of
28 purchase, and the name and address of the sales tax dealer
29 from whom the property was purchased.

30 f. Whether the business is a small business as defined
31 by s. 288.703(1).

1 g. If applicable, the name and address of each
2 permanent employee of the business, including, for each
3 employee who is a resident of an enterprise zone or designated
4 brownfield area, the identifying number assigned pursuant to
5 s. 290.0065 to the enterprise zone or designated brownfield
6 area in which the employee resides.

7 3. Within 10 working days after receipt of an
8 application, the governing body or enterprise zone development
9 agency having jurisdiction over the enterprise zone or
10 designated brownfield area shall review the application to
11 determine if it contains all the information required pursuant
12 to subparagraph 2. and meets the criteria set out in this
13 paragraph. The governing body or agency shall certify all
14 applications that contain the information required pursuant to
15 subparagraph 2. and meet the criteria set out in this
16 paragraph as eligible to receive a refund. If applicable, the
17 governing body or agency shall also certify if 20 percent of
18 the employees of the business are residents of an enterprise
19 zone or designated brownfield area, excluding temporary and
20 part-time employees. The certification shall be in writing,
21 and a copy of the certification shall be transmitted to the
22 executive director of the Department of Revenue. The business
23 shall be responsible for forwarding a certified application to
24 the department within the time specified in subparagraph 4.

25 4. An application for a refund pursuant to this
26 paragraph must be submitted to the department within 6 months
27 after the business property is purchased.

28 5. The provisions of s. 212.095 do not apply to any
29 refund application made pursuant to this paragraph. The amount
30 refunded on purchases of business property under this
31 paragraph shall be the lesser of 97 percent of the sales tax

1 paid on such business property or \$5,000, or, if no less than
2 20 percent of the employees of the business are residents of
3 an enterprise zone or designated brownfield area, excluding
4 temporary and part-time employees, the amount refunded on
5 purchases of business property under this paragraph shall be
6 the lesser of 97 percent of the sales tax paid on such
7 business property or \$10,000. A refund approved pursuant to
8 this paragraph shall be made within 30 days of formal approval
9 by the department of the application for the refund. No refund
10 shall be granted under this paragraph unless the amount to be
11 refunded exceeds \$100 in sales tax paid on purchases made
12 within a 60-day time period.

13 6. The department shall adopt rules governing the
14 manner and form of refund applications and may establish
15 guidelines as to the requisites for an affirmative showing of
16 qualification for exemption under this paragraph.

17 7. If the department determines that the business
18 property is used outside an enterprise zone or designated
19 brownfield area within 3 years from the date of purchase, the
20 amount of taxes refunded to the business purchasing such
21 business property shall immediately be due and payable to the
22 department by the business, together with the appropriate
23 interest and penalty, computed from the date of purchase, in
24 the manner provided by this chapter. Notwithstanding this
25 subparagraph, business property used exclusively in:

- 26 a. Licensed commercial fishing vessels,
- 27 b. Fishing guide boats, or
- 28 c. Ecotourism guide boats

29
30 that leave and return to a fixed location within an area
31 designated under s. 370.28 are eligible for the exemption

1 provided under this paragraph if all requirements of this
2 paragraph are met. Such vessels and boats must be owned by a
3 business that is eligible to receive the exemption provided
4 under this paragraph. This exemption does not apply to the
5 purchase of a vessel or boat.

6 8. The department shall deduct an amount equal to 10
7 percent of each refund granted under the provisions of this
8 paragraph from the amount transferred into the Local
9 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
10 s. 212.20 for the county area in which the business property
11 is located and shall transfer that amount to the General
12 Revenue Fund.

13 9. For the purposes of this exemption, "business
14 property" means new or used property defined as "recovery
15 property" in s. 168(c) of the Internal Revenue Code of 1954,
16 as amended, except:

17 a. Property classified as 3-year property under s.
18 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

19 b. Industrial machinery and equipment as defined in
20 sub-subparagraph (b)6.a. and eligible for exemption under
21 paragraph (b); and

22 c. Building materials as defined in sub-subparagraph
23 (g)8.a.

24 10. The provisions of this paragraph shall expire and
25 be void on December 31, 2005.

26 Section 7. Section 212.096, Florida Statutes, is
27 amended to read:

28 212.096 Sales, rental, storage, use tax; brownfield
29 area and enterprise zone jobs credit against sales tax.--

30 (1) For the purposes of the credit provided in this
31 section:

1 (a) "Eligible business" means any sole proprietorship,
2 firm, partnership, corporation, bank, savings association,
3 estate, trust, business trust, receiver, syndicate, or other
4 group or combination, or successor business, located in an
5 enterprise zone or a brownfield area designated under s.
6 376.80. An eligible business does not include any business
7 which has claimed the credit permitted under s. 220.181 for
8 any new business employee first beginning employment with the
9 business after July 1, 1995.

10 (b) "Month" means either a calendar month or the time
11 period from any day of any month to the corresponding day of
12 the next succeeding month or, if there is no corresponding day
13 in the next succeeding month, the last day of the succeeding
14 month.

15 (c) "New employee" means a person residing in an
16 enterprise zone or a designated brownfield area, a qualified
17 Job Training Partnership Act classroom training participant,
18 or a WAGES Program participant who begins employment with an
19 eligible business after July 1, 1995, and who has not been
20 previously employed within the preceding 12 months by the
21 eligible business, or a successor eligible business, claiming
22 the credit allowed by this section.

23
24 A person shall be deemed to be employed if the person performs
25 duties in connection with the operations of the business on a
26 regular, full-time basis, provided the person is performing
27 such duties for an average of at least 36 hours per week each
28 month, or a part-time basis, provided the person is performing
29 such duties for an average of at least 20 hours per week each
30 month throughout the year. The person must be performing such
31

1 duties at a business site located in the enterprise zone or
2 designated brownfield area.

3 (2)(a) It is the legislative intent to encourage the
4 provision of meaningful employment opportunities that ~~which~~
5 will improve the quality of life of those employed and to
6 encourage economic expansion of enterprise zones or designated
7 brownfield areas and the state. Therefore, beginning July 1,
8 1995, upon an affirmative showing by a business to the
9 satisfaction of the department that the requirements of this
10 section have been met, the business shall be allowed a credit
11 against the tax remitted under this chapter.

12 (b) The credit shall be computed as follows:

13 1. Ten percent of the monthly wages paid in this state
14 to each new employee whose wages do not exceed \$1,500 a month.
15 If no less than 20 percent of the employees of the business
16 are residents of an enterprise zone or a designated brownfield
17 area, excluding temporary and part-time employees, the credit
18 shall be computed as 15 percent of the monthly wages paid in
19 this state to each new employee;

20 2. Five percent of the first \$1,500 of actual monthly
21 wages paid in this state for each new employee whose wages
22 exceed \$1,500 a month; or

23 3. Fifteen percent of the first \$1,500 of actual
24 monthly wages paid in this state for each new employee who is
25 a WAGES Program participant pursuant to chapter 414.

26
27 For purposes of this paragraph, monthly wages shall be
28 computed as one-twelfth of the expected annual wages paid to
29 such employee. The amount paid as wages to a new employee is
30 the compensation paid to such employee that is subject to
31 unemployment tax. The credit shall be allowed for up to 12

1 consecutive months, beginning with the first tax return due
2 pursuant to s. 212.11 after approval by the department.

3 (3) In order to claim this credit, an eligible
4 business must file under oath with the governing body or
5 enterprise zone development agency having jurisdiction over
6 the enterprise zone or designated brownfield area where the
7 business is located, as applicable, a statement which
8 includes:

9 (a) For each new employee for whom this credit is
10 claimed, the employee's name and place of residence, including
11 the identifying number assigned pursuant to s. 290.0065 to the
12 enterprise zone or designated brownfield area in which the
13 employee resides if the new employee is a person residing in
14 an enterprise zone, and, if applicable, documentation that the
15 employee is a qualified Job Training Partnership Act classroom
16 training participant or a WAGES Program participant.

17 (b) If applicable, the name and address of each
18 permanent employee of the business, including, for each
19 employee who is a resident of an enterprise zone or a
20 designated brownfield area, the identifying number assigned
21 pursuant to s. 290.0065 to the enterprise zone or designated
22 brownfield area in which the employee resides.

23 (c) The name and address of the eligible business.

24 (d) The starting salary or hourly wages paid to the
25 new employee.

26 (e) The identifying number assigned pursuant to s.
27 290.0065 to the enterprise zone or designated brownfield area
28 in which the business is located.

29 (f) Whether the business is a small business as
30 defined by s. 288.703(1).

31

1 (g) Within 10 working days after receipt of an
2 application, the governing body or enterprise zone development
3 agency having jurisdiction over the enterprise zone or
4 designated brownfield area shall review the application to
5 determine if it contains all the information required pursuant
6 to this subsection and meets the criteria set out in this
7 section. The governing body or agency shall certify all
8 applications that contain the information required pursuant to
9 this subsection and meet the criteria set out in this section
10 as eligible to receive a credit. If applicable, the governing
11 body or agency shall also certify if 20 percent of the
12 employees of the business are residents of an enterprise zone
13 or a designated brownfield area, excluding temporary and
14 part-time employees. The certification shall be in writing,
15 and a copy of the certification shall be transmitted to the
16 executive director of the Department of Revenue. The business
17 shall be responsible for forwarding a certified application to
18 the department within the time specified in paragraph (h).

19 (h) All applications for a credit pursuant to this
20 section must be submitted to the department within 4 months
21 after the new employee is hired.

22 (4) In the event the application is insufficient to
23 support the credit authorized in this section, the department
24 shall deny the credit and notify the business of that fact.
25 The business may reapply for this credit.

26 (5) The credit provided in this section does not
27 apply:

28 (a) For any new employee who is an owner, partner, or
29 stockholder of an eligible business.

30 (b) For any new employee who is employed for any
31 period less than 3 full calendar months.

1 (6) The credit provided in this section shall not be
2 allowed for any month in which the tax due for such period or
3 the tax return required pursuant to s. 212.11 for such period
4 is delinquent.

5 (7) In the event an eligible business has a credit
6 larger than the amount owed the state on the tax return for
7 the time period in which the credit is claimed, the amount of
8 the credit for that time period shall be the amount owed the
9 state on that tax return.

10 (8) Any business which has claimed this credit shall
11 not be allowed any credit under the provisions of s. 220.181
12 for any new employee beginning employment after July 1, 1995.

13 (9) It shall be the responsibility of each business to
14 affirmatively demonstrate to the satisfaction of the
15 department that it meets the requirements of this section.

16 (10) Any person who fraudulently claims this credit is
17 liable for repayment of the credit plus a mandatory penalty of
18 100 percent of the credit plus interest at the rate provided
19 in this chapter, and such person is guilty of a misdemeanor of
20 the second degree, punishable as provided in s. 775.082 or s.
21 775.083.

22 (11) The provisions of this section, except for
23 subsection (10), shall expire and be void on December 31,
24 2005.

25 Section 8. Paragraph (f) of subsection (6) of section
26 212.20, Florida Statutes, is amended to read:

27 212.20 Funds collected, disposition; additional powers
28 of department; operational expense; refund of taxes
29 adjudicated unconstitutionally collected.--

30 (6) Distribution of all proceeds under this chapter
31 shall be as follows:

1 (f) The proceeds of all other taxes and fees imposed
2 pursuant to this chapter shall be distributed as follows:

3 1. In any fiscal year, the greater of \$500 million,
4 minus an amount equal to 4.6 percent of the proceeds of the
5 taxes collected pursuant to chapter 201, or 5 percent of all
6 other taxes and fees imposed pursuant to this chapter shall be
7 deposited in monthly installments into the General Revenue
8 Fund.

9 2. Two-tenths of one percent shall be transferred to
10 the Solid Waste Management Trust Fund.

11 3. After the distribution under subparagraphs 1. and
12 2., 9.653 percent of the amount remitted by a sales tax dealer
13 located within a participating county pursuant to s. 218.61
14 shall be transferred into the Local Government Half-cent Sales
15 Tax Clearing Trust Fund.

16 4. After the distribution under subparagraphs 1., 2.,
17 and 3., 0.054 percent shall be transferred to the Local
18 Government Half-cent Sales Tax Clearing Trust Fund and
19 distributed pursuant to s. 218.65.

20 5. Of the remaining proceeds:

21 a. Beginning July 1, 1992, \$166,667 shall be
22 distributed monthly by the department to each applicant that
23 has been certified as a "facility for a new professional
24 sports franchise" or a "facility for a retained professional
25 sports franchise" pursuant to s. 288.1162 and \$41,667 shall be
26 distributed monthly by the department to each applicant that
27 has been certified as a "new spring training franchise
28 facility" pursuant to s. 288.1162. Distributions shall begin
29 60 days following such certification and shall continue for 30
30 years. Nothing contained herein shall be construed to allow an
31 applicant certified pursuant to s. 288.1162 to receive more in

1 distributions than actually expended by the applicant for the
2 public purposes provided for in s. 288.1162(7). However, a
3 certified applicant shall receive distributions up to the
4 maximum amount allowable and undistributed under this section
5 for additional renovations and improvements to the facility
6 for the franchise without additional certification.

7 b. Beginning 30 days after notice by the Office of
8 Tourism, Trade, and Economic Development to the Department of
9 Revenue that an applicant has been certified as the
10 professional golf hall of fame pursuant to s. 288.1168 and is
11 open to the public, \$166,667 shall be distributed monthly, for
12 up to 300 months, to the applicant.

13 c. Beginning 30 days after notice by the Department of
14 Commerce to the Department of Revenue that the applicant has
15 been certified as the International Game Fish Association
16 World Center facility pursuant to s. 288.1169, and the
17 facility is open to the public, \$83,333 shall be distributed
18 monthly, for up to 180 months, to the applicant. This
19 distribution is subject to reduction pursuant to s. 288.1169.

20 d. Beginning 30 days after notice by the Office of
21 Tourism, Trade, and Economic Development to the Department of
22 Revenue that an applicant has been certified as a business
23 located and operated in an enterprise zone or designated
24 brownfield area pursuant to s. 376.80, an amount equal to the
25 tax rebate calculated pursuant to s. 290.007(9) shall be
26 distributed, on a monthly basis and within a 12 month period,
27 to the certified business by the Department of Revenue.

28 6. All other proceeds shall remain with the General
29 Revenue Fund.

30 Section 9. Section 220.181, Florida Statutes, is
31 amended to read:

1 220.181 Enterprise zone or designated brownfield area
2 jobs credit.--

3 (1)(a) ~~Beginning July 1, 1995,~~There shall be allowed
4 a credit against the tax imposed by this chapter to any
5 business located in an enterprise zone or a brownfield area
6 designated under s. 376.80 which employs one or more new
7 employees. The credit shall be computed as follows:

8 1. Ten percent of the actual monthly wages paid in
9 this state to each new employee whose wages do not exceed
10 \$1,500 a month. If no less than 20 percent of the employees of
11 the business are residents of an enterprise zone or a
12 brownfield area designated under s. 376.80, excluding
13 temporary and part-time employees, the credit shall be
14 computed as 15 percent of the actual monthly wages paid in
15 this state to each new employee, for a period of up to 12
16 consecutive months;

17 2. Five percent of the first \$1,500 of actual monthly
18 wages paid in this state for each new employee whose wages
19 exceed \$1,500 a month; or

20 3. Fifteen percent of the first \$1,500 of actual
21 monthly wages paid in this state for each new employee who is
22 a WAGES Program participant pursuant to chapter 414.

23 (b) This credit applies only with respect to wages
24 subject to unemployment tax and does not apply for any new
25 employee who is employed for any period less than 3 full
26 months.

27 (c) If this credit is not fully used in any one year,
28 the unused amount may be carried forward for a period not to
29 exceed 5 years. The carryover credit may be used in a
30 subsequent year when the tax imposed by this chapter for such
31 year exceeds the credit for such year after applying the other

1 credits and unused credit carryovers in the order provided in
2 s. 220.02(10).

3 (2) When filing for an enterprise zone jobs credit or
4 a brownfield area jobs credit, a business must file under oath
5 with the governing body or enterprise zone development agency
6 having jurisdiction over the enterprise zone or the designated
7 brownfield area where the business is located, as applicable,
8 a statement which includes:

9 (a) For each new employee for whom this credit is
10 claimed, the employee's name and place of residence during the
11 taxable year, including the identifying number assigned
12 pursuant to s. 290.0065 to the enterprise zone, or to the
13 brownfield area designated under s. 376.80, in which the new
14 employee resides if the new employee is a person residing in
15 an enterprise zone or a designated brownfield area, and, if
16 applicable, documentation that the employee is a qualified Job
17 Training Partnership Act classroom training participant or a
18 WAGES Program participant.

19 (b) If applicable, the name and address of each
20 permanent employee of the business, including, for each
21 employee who is a resident of an enterprise zone or a
22 designated brownfield area, the identifying number assigned
23 pursuant to s. 290.0065 to the enterprise zone or designated
24 brownfield area in which the employee resides.

25 (c) The name and address of the business.

26 (d) The identifying number assigned pursuant to s.
27 290.0065 to the enterprise zone or designated brownfield area
28 in which the eligible business is located.

29 (e) The salary or hourly wages paid to each new
30 employee claimed.

31

1 (f) Whether the business is a small business as
2 defined by s. 288.703(1).

3 (3) Within 10 working days after receipt of an
4 application, the governing body or enterprise zone development
5 agency having jurisdiction over the enterprise zone or
6 designated brownfield area shall review the application to
7 determine if it contains all the information required pursuant
8 to subsection (2) and meets the criteria set out in this
9 section. The governing body or agency shall certify all
10 applications that contain the information required pursuant to
11 subsection (2) and meet the criteria set out in this section
12 as eligible to receive a credit. If applicable, the governing
13 body or agency shall also certify if 20 percent of the
14 employees of the business are residents of an enterprise zone
15 or designated brownfield area, excluding temporary and
16 part-time employees. The certification shall be in writing,
17 and a copy of the certification shall be transmitted to the
18 executive director of the Department of Revenue. The business
19 shall be responsible for forwarding a certified application to
20 the department.

21 (4) It shall be the responsibility of the taxpayer to
22 affirmatively demonstrate to the satisfaction of the
23 department that it meets the requirements of this act.

24 (5) For the purpose of this section, the term "month"
25 means either a calendar month or the time period from any day
26 of any month to the corresponding day of the next succeeding
27 month or, if there is no corresponding day in the next
28 succeeding month, the last day of the succeeding month.

29 (6) No business which files an amended return for a
30 taxable year shall be allowed any amount of credit or credit
31 carryforward pursuant to this section in excess of the amount

1 | claimed by such business on its original return for the
2 | taxable year. The provisions of this subsection do not apply
3 | to increases in the amount of credit claimed under this
4 | section on an amended return due to the use of any credit
5 | amount previously carried forward for the taxable year on the
6 | original return or any eligible prior year under paragraph
7 | (1)(c).

8 | (7) Any business which has claimed this credit shall
9 | not be allowed any credit under the provision of s. 212.096
10 | for any new employee beginning employment after July 1, 1995.
11 | The provisions of this subsection shall not apply when a
12 | corporation converts to an S corporation for purposes of
13 | compliance with the Internal Revenue Code of 1986, as amended;
14 | however, no corporation shall be allowed the benefit of this
15 | credit and the credit under s. 212.096 either for the same new
16 | employee or for the same taxable year. In addition, such a
17 | corporation shall not be allowed any credit under s. 212.096
18 | until it has filed notice of its intent to change its status
19 | for tax purposes and until its final return under this chapter
20 | for the taxable year prior to such change has been filed.

21 | (8)(a) Any person who fraudulently claims this credit
22 | is liable for repayment of the credit, plus a mandatory
23 | penalty in the amount of 200 percent of the credit, plus
24 | interest at the rate provided in s. 220.807, and commits a
25 | felony of the third degree, punishable as provided in s.
26 | 775.082, s. 775.083, or s. 775.084.

27 | (b) Any person who makes an underpayment of tax as a
28 | result of a grossly overstated claim for this credit is guilty
29 | of a felony of the third degree, punishable as provided in s.
30 | 775.082, s. 775.083, or s. 775.084. For purposes of this
31 | paragraph, a grossly overstated claim means a claim in an

1 amount in excess of 100 percent of the amount of credit
2 allowable under this section.

3 (9) The provisions of this section, except paragraph
4 (1)(c) and subsection (8), shall expire and be void on June
5 30, 2005, and no business shall be allowed to begin claiming
6 such enterprise zone jobs credit after that date; however, the
7 expiration of this section shall not affect the operation of
8 any credit for which a business has qualified under this
9 section prior to June 30, 2005, or any carryforward of unused
10 credit amounts as provided in paragraph (1)(c).

11 Section 10. Section 220.182, Florida Statutes, is
12 amended to read:

13 220.182 Enterprise zone and brownfield area property
14 tax credit.--

15 (1)(a) ~~Beginning July 1, 1995,~~ There shall be allowed
16 a credit against the tax imposed by this chapter to any
17 business which establishes a new business as defined in s.
18 220.03(1)(p)2., expands an existing business as defined in s.
19 220.03(1)(k)2., or rebuilds an existing business as defined in
20 s. 220.03(1)(u) in this state. The credit shall be computed
21 annually as ad valorem taxes paid in this state, in the case
22 of a new business; the additional ad valorem tax paid in this
23 state resulting from assessments on additional real or
24 tangible personal property acquired to facilitate the
25 expansion of an existing business; or the ad valorem taxes
26 paid in this state resulting from assessments on property
27 replaced or restored, in the case of a rebuilt business,
28 including pollution and waste control facilities, or any part
29 thereof, and including one or more buildings or other
30 structures, machinery, fixtures, and equipment.

31

1 (b) If the credit granted pursuant to this section is
2 not fully used in any one year, the unused amount may be
3 carried forward for a period not to exceed 5 years. The
4 carryover credit may be used in a subsequent year when the tax
5 imposed by this chapter for such year exceeds the credit for
6 such year under this section after applying the other credits
7 and unused credit carryovers in the order provided in s.
8 220.02(10). The amount of credit taken under this section in
9 any one year, however, shall not exceed \$25,000, or, if no
10 less than 20 percent of the employees of the business are
11 residents of an enterprise zone or a brownfield area
12 designated under s. 376.80, excluding temporary employees, the
13 amount shall not exceed \$50,000.

14 (2) To be eligible to receive an expanded enterprise
15 zone or a designated brownfield area property tax credit of up
16 to \$50,000, the business must provide a statement, under oath,
17 on the form prescribed by the department for claiming the
18 credit authorized by this section, that no less than 20
19 percent of its employees, excluding temporary and part-time
20 employees, are residents of an enterprise zone or a designated
21 brownfield area. It shall be a condition precedent to the
22 granting of each annual tax credit that such employment
23 requirements be fulfilled throughout each year during the
24 5-year period of the credit. The statement shall set forth the
25 name and place of residence of each permanent employee on the
26 last day of business of the tax year for which the credit is
27 claimed or, if the employee is no longer employed or eligible
28 for the credit on that date, the last calendar day of the last
29 full calendar month the employee was employed or eligible for
30 the credit at the relevant site.

31

1 (3) The credit shall be available to a new business
2 for a period not to exceed the year in which ad valorem taxes
3 are first levied against the business and the 4 years
4 immediately thereafter. The credit shall be available to an
5 expanded existing business for a period not to exceed the year
6 in which ad valorem taxes are first levied on additional real
7 or tangible personal property acquired to facilitate the
8 expansion or rebuilding and the 4 years immediately
9 thereafter. No business shall be entitled to claim the credit
10 authorized by this section, except any amount attributable to
11 the carryover of a previously earned credit, for more than 5
12 consecutive years.

13 (4) To be eligible for an enterprise zone or a
14 designated brownfield area property tax credit, a new,
15 expanded, or rebuilt business shall file a notice with the
16 property appraiser of the county in which the business
17 property is located or to be located. The notice shall be
18 filed no later than April 1 of the year in which new or
19 additional real or tangible personal property acquired to
20 facilitate such new, expanded, or rebuilt facility is first
21 subject to assessment. The notice shall be made on a form
22 prescribed by the department and shall include separate
23 descriptions of:

24 (a) Real and tangible personal property owned or
25 leased by the business prior to expansion, if any.

26 (b) Net new or additional real and tangible personal
27 property acquired to facilitate the new, expanded, or rebuilt
28 facility.

29 (5) When filing for an enterprise zone or a designated
30 brownfield area property tax credit as a new business, a
31

1 business shall include a copy of its receipt indicating
2 payment of ad valorem taxes for the current year.

3 (6) When filing for an enterprise zone or a designated
4 brownfield area property tax credit as an expanded or rebuilt
5 business, a business shall include copies of its receipts
6 indicating payment of ad valorem taxes for the current year
7 for prior existing property and for expansion-related or
8 rebuilt property.

9 (7) The receipts described in subsections (5) and (6)
10 shall indicate the assessed value of the property, the
11 property taxes paid, a brief description of the property, and
12 an indication, if applicable, that the property was separately
13 assessed as expansion-related or rebuilt property.

14 (8) The department has authority to adopt rules
15 pursuant to ss. 120.536(1) and 120.54 to implement the
16 provisions of this act.

17 (9) It shall be the responsibility of the taxpayer to
18 affirmatively demonstrate to the satisfaction of the
19 department that he or she meets the requirements of this act.

20 (10) When filing for an enterprise zone or a
21 designated brownfield area property tax credit as an expansion
22 of an existing business or as a new business, it shall be a
23 condition precedent to the granting of each annual tax credit
24 that there have been, throughout each year during the 5-year
25 period, no fewer than five more employees than in the year
26 preceding the initial granting of the credit.

27 (11) To apply for an enterprise zone or a designated
28 brownfield area property tax credit, a new, expanded, or
29 rebuilt business must file under oath with the governing body
30 or enterprise zone development agency having jurisdiction over
31 the enterprise zone or the designated brownfield area where

1 the business is located, as applicable, an application
2 prescribed by the department for claiming the credit
3 authorized by this section. Within 10 working days after
4 receipt of an application, the governing body or enterprise
5 zone development agency shall review the application to
6 determine if it contains all the information required pursuant
7 to this section and meets the criteria set out in this
8 section. The governing body or agency shall certify all
9 applications that contain the information required pursuant to
10 this section and meet the criteria set out in this section as
11 eligible to receive a credit. If applicable, the governing
12 body or agency shall also certify if 20 percent of the
13 employees of the business are residents of an enterprise zone
14 or a designated brownfield area, excluding temporary and
15 part-time employees. The certification shall be in writing,
16 and a copy of the certification shall be transmitted to the
17 executive director of the Department of Revenue. The business
18 shall be responsible for forwarding all certified applications
19 to the department.

20 (12) When filing for an enterprise zone or a
21 designated brownfield area property tax credit, a business
22 shall include the identifying number assigned pursuant to s.
23 290.0065 to the enterprise zone in which the business is
24 located.

25 (13) When filing for an enterprise zone or a
26 designated brownfield area property tax credit, a business
27 shall indicate whether the business is a small business as
28 defined by s. 288.703(1).

29 (14) The provisions of this section shall expire and
30 be void on June 30, 2005, and no business shall be allowed to
31 begin claiming such enterprise zone or designated brownfield

1 area property tax credit after that date; however, the
2 expiration of this section shall not affect the operation of
3 any credit for which a business has qualified under this
4 section prior to June 30, 2005, or any carryforward of unused
5 credit amounts as provided in paragraph (1)(b).

6 Section 11. Subsections (1) and (2) and paragraph (d)
7 of subsection (4) of section 220.183, Florida Statutes, are
8 amended to read:

9 220.183 Community contribution tax credit.--

10 (1) LEGISLATIVE FINDINGS.--The Legislature finds that:

11 (a) There exist in the counties and municipalities
12 conditions of blight evidenced by extensive deterioration of
13 public and private facilities, abandonment of sound
14 structures, and high unemployment which conditions impede the
15 conservation and development of healthy, safe, and
16 economically viable communities.

17 (b) Deterioration of housing and industrial,
18 commercial, and public facilities contributes to the decline
19 of neighborhoods and communities and leads to the loss of
20 their historic character and the sense of community which this
21 inspires; reduces the value of property comprising the tax
22 base of local communities; discourages private investment; and
23 requires a disproportionate expenditure of public funds for
24 the social services, unemployment benefits, and police
25 protection required to combat the social and economic problems
26 found in slum communities.

27 (c) In order to ultimately restore social and economic
28 viability to enterprise zones and brownfield areas designated
29 under s. 376.80, it is necessary to renovate or construct new
30 housing, water and sewer infrastructure, and transportation
31

1 facilities and to specifically provide mechanisms to attract
2 and encourage private economic activity.

3 (d) The various local governments and other
4 redevelopment organizations now undertaking physical
5 revitalization projects are limited by tightly constrained
6 budgets and inadequate resources.

7 (e) In order to significantly improve revitalization
8 efforts by local governments and community development
9 organizations and to retain as much of the historic character
10 of our communities as possible, it is necessary to provide
11 additional resources, and the participation of private
12 enterprise in revitalization efforts is an effective means for
13 accomplishing that goal.

14 (2) POLICY AND PURPOSE.--It is the policy of this
15 state to encourage the participation of private corporations
16 in revitalization projects undertaken by public redevelopment
17 organizations. The purpose of this section is to provide to
18 the greatest extent possible an incentive for such
19 participation by granting partial state income tax credits to
20 corporations that contribute resources to public redevelopment
21 organizations for the revitalization of enterprise zones and
22 brownfield areas designated under s. 376.80 for the benefit of
23 low-income and moderate-income persons or to preserve existing
24 historically significant properties within enterprise zones or
25 brownfield areas designated under s. 376.80 ~~to the greatest~~
26 ~~extent possible~~. The Legislature thus declares this a public
27 purpose for which public money may be borrowed, expended,
28 loaned, and granted.

29 (4) ELIGIBILITY REQUIREMENTS.--

30 (d) The project shall be located in an area designated
31 as an enterprise zone pursuant to s. 290.0065 or a brownfield

1 area designated under s. 376.80. Any project designed to
2 construct or rehabilitate low-income housing is exempt from
3 the area requirement of this paragraph.

4 Section 12. Subsection (1) of section 220.1845,
5 Florida Statutes, is amended to read:

6 220.1845 Contaminated site rehabilitation tax
7 credit.--

8 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

9 (a) A credit in the amount of 35 percent of the costs
10 of voluntary cleanup activity that is integral to site
11 rehabilitation at the following sites is allowed against any
12 tax due for a taxable year under this chapter:

13 1. A drycleaning-solvent-contaminated site eligible
14 for state-funded site rehabilitation under s. 376.3078(3);

15 2. A drycleaning-solvent-contaminated site at which
16 cleanup is undertaken by the real property owner pursuant to
17 s. 376.3078(11), if the real property owner is not also, and
18 has never been, the owner or operator of the drycleaning
19 facility where the contamination exists; ~~or~~

20 3. A brownfield site in a designated brownfield area
21 under s. 376.80; ~~or~~

22 4. Any other contaminated site at which cleanup is
23 undertaken by a person pursuant to a voluntary cleanup
24 agreement approved by the Department of Environmental
25 Protection, if the person did not cause or contribute to the
26 contamination at the site.

27 (b) For all applications received by the Department of
28 Environmental Protection by January 15, if, as of the
29 following March 1, the credits granted under paragraph (a) do
30 not exhaust the annual maximum allowable credits under
31 paragraph (h), any remaining credits may be granted for

1 petroleum-contaminated sites at which site rehabilitation is
2 being conducted pursuant to the preapproved advanced cleanup
3 program authorized in s. 376.30713, but tax credits may be
4 granted only for 35 percent of the amount of the cost-share
5 percentage of site rehabilitation costs paid for with private
6 funding. Tax credit applications submitted for preapproved
7 advanced cleanup sites shall not be included in the
8 carry-forward provision of s. 376.30781(9), which otherwise
9 allows applications that do not receive credits due to an
10 exhaustion of the annual tax credit authorization to be
11 carried forward in the same order for the next year's annual
12 tax credit allocation, if any, based on the prior year
13 application.

14 (c)~~(b)~~ A taxpayer, or multiple taxpayers working
15 jointly to clean up a single site, may not receive more than
16 \$250,000 per year in tax credits for each site voluntarily
17 rehabilitated. Multiple taxpayers shall receive tax credits in
18 the same proportion as their contribution to payment of
19 cleanup costs. Subject to the same conditions and limitations
20 as provided in this section, a municipality or county which
21 voluntarily rehabilitates a site may receive not more than
22 \$250,000 per year in tax credits which it can subsequently
23 transfer subject to the provisions in paragraph(i)~~(h)~~.

24 (d)~~(e)~~ If the credit granted under this section is not
25 fully used in any one year because of insufficient tax
26 liability on the part of the corporation, the unused amount
27 may be carried forward for a period not to exceed 5 years. The
28 carryover credit may be used in a subsequent year when the tax
29 imposed by this chapter for that year exceeds the credit for
30 which the corporation is eligible in that year under this

31

1 section after applying the other credits and unused carryovers
2 in the order provided by s. 220.02(10).

3 (e)~~(d)~~ A taxpayer that files a consolidated return in
4 this state as a member of an affiliated group under s.
5 220.131(1) may be allowed the credit on a consolidated return
6 basis up to the amount of tax imposed upon and paid by the
7 taxpayer that incurred the rehabilitation costs.

8 (f)~~(e)~~ A taxpayer that receives credit under s.
9 199.1055 is ineligible to receive credit under this section in
10 a given tax year.

11 (g)~~(f)~~ A taxpayer that receives state-funded site
12 rehabilitation under s. 376.3078(3) for rehabilitation of a
13 drycleaning-solvent-contaminated site is ineligible to receive
14 credit under this section for costs incurred by the taxpayer
15 in conjunction with the rehabilitation of that site during the
16 same time period that state-administered site rehabilitation
17 was underway.

18 (h)~~(g)~~ The total amount of the tax credits which may
19 be granted under this section and s. 199.1055 is \$2 million
20 annually.

21 (i)~~(h)~~1. Tax credits that may be available under this
22 section to an entity eligible under s. 376.30781 may be
23 transferred after a merger or acquisition to the surviving or
24 acquiring entity and used in the same manner and with the same
25 limitations.

26 2. The entity or its surviving or acquiring entity as
27 described in subparagraph 1., may transfer any unused credit
28 in whole or in units of no less than 25 percent of the
29 remaining credit. The entity acquiring such credit may use it
30 in the same manner and with the same limitation as described
31 in this section. Such transferred credits may not be

1 transferred again although they may succeed to a surviving or
2 acquiring entity subject to the same conditions and
3 limitations as described in this section.

4 3. In the event the credit provided for under this
5 section is reduced either as a result of a determination by
6 the Department of Environmental Protection or an examination
7 or audit by the Department of Revenue, such tax deficiency
8 shall be recovered from the first entity, or the surviving or
9 acquiring entity, to have claimed such credit up to the amount
10 of credit taken. Any subsequent deficiencies shall be
11 assessed against any entity acquiring and claiming such
12 credit, or in the case of multiple succeeding entities in the
13 order of credit succession.

14 ~~(j)(i)~~ In order to encourage completion of site
15 rehabilitation at contaminated sites being voluntarily cleaned
16 up and eligible for a tax credit under this section, the
17 taxpayer may claim an additional 10 percent of the total
18 cleanup costs, not to exceed \$50,000, in the final year of
19 cleanup as evidenced by the Department of Environmental
20 Protection issuing a "No Further Action" order for that site.

21 Section 13. Subsections (4) and (7) of section 252.87,
22 Florida Statutes, are amended to read:

23 252.87 Supplemental state reporting requirements.--

24 (4) Each employer that owns or operates a facility in
25 this state at which hazardous materials are present in
26 quantities at or above the thresholds established under ss.
27 311(b) and 312(b) of EPCRA shall comply with the reporting
28 requirements of ss. 311 and 312 of EPCRA. Such employer shall
29 also be responsible for notifying the department, the local
30 emergency planning committee, and the local fire department in
31 writing within 30 days if there is a discontinuance or

1 abandonment of the employer's business activities that could
2 affect any stored hazardous materials.

3 (7) The department shall avoid duplicative reporting
4 requirements by utilizing the reporting requirements of other
5 state agencies that regulate hazardous materials to the extent
6 feasible and shall ~~only~~ request the ~~necessary~~ information
7 authorized required under EPCRA ~~or required to implement the~~
8 ~~fee provisions of this part.~~ With the advice and consent of
9 the State Emergency Response Commission for Hazardous
10 Materials, the department may require by rule that the maximum
11 daily amount entry on the chemical inventory report required
12 under s. 312 of EPCRA provide for reporting in estimated
13 actual amounts. The department may also require by rule an
14 entry for the Federal Employer Identification Number on this
15 report. To the extent feasible, the department shall encourage
16 and accept required information in a form initiated through
17 electronic data interchange and shall describe by rule the
18 format, manner of execution, and method of electronic
19 transmission necessary for using such form.To the extent
20 feasible, the Department of Insurance, the Department of
21 Agriculture and Consumer Services, the Department of
22 Environmental Protection, the Public Service Commission, the
23 Department of Revenue, the Department of Labor and Employment
24 Security, and other state agencies which regulate hazardous
25 materials shall coordinate with the department in order to
26 avoid duplicative requirements contained in each agency's
27 respective reporting or registration forms. The other state
28 agencies that inspect facilities storing hazardous materials
29 and suppliers and distributors of covered substances shall
30 assist the department in informing the facility owner or
31 operator of the requirements of this part. The department

1 shall provide the other state agencies with the necessary
2 information and materials to inform the owners and operators
3 of the requirements of this part to ensure that the budgets of
4 these agencies are not adversely affected.

5 Section 14. Subsection (5) of section 288.047, Florida
6 Statutes, is amended to read:

7 288.047 Quick-response training for economic
8 development.--

9 (5) For the first 6 months of each fiscal year,
10 Enterprise Florida, Inc., shall set aside 30 percent of the
11 amount appropriated for the Quick-Response Training Program by
12 the Legislature to fund instructional programs for businesses
13 located in an enterprise zone or brownfield area ~~to instruct~~
14 ~~residents of an enterprise zone~~. Any unencumbered funds
15 remaining undisbursed from this set-aside at the end of the
16 6-month period may be used to provide funding for any program
17 qualifying for funding pursuant to this section.

18 Section 15. Section 288.107, Florida Statutes, is
19 amended to read:

20 288.107 Brownfield redevelopment bonus refunds.--

21 (1) DEFINITIONS.--As used in this section:

22 (a) "Account" means the Economic Development
23 Incentives Account as authorized in s. 288.095.

24 (b) "Brownfield sites" means sites that are generally
25 abandoned, idled, or underused industrial and commercial
26 properties where expansion or redevelopment is complicated by
27 actual or perceived environmental contamination.

28 (c) "Brownfield area" means a contiguous area of one
29 or more brownfield sites, some of which may not be
30 contaminated, and which has been designated by a local
31 government by resolution. Such areas may include all or

1 portions of community redevelopment areas, enterprise zones,
2 empowerment zones, other such designated economically deprived
3 communities and areas, and
4 Environmental-Protection-Agency-designated brownfield pilot
5 projects.

6 (d) "Director" means the director of the Office of
7 Tourism, Trade, and Economic Development.

8 (e) "Eligible business" means a qualified target
9 industry business as defined in s. 288.106(2)(o) or other
10 business that can demonstrate a fixed capital investment of at
11 least \$2 million in mixed-use business activities, including
12 multi-unit housing, commercial, retail, and industrial in
13 brownfield areas and which pays wages that are at least 80
14 percent of the average of all private-sector wages in the
15 county in which the business is located.

16 (f) "Jobs" means full-time equivalent positions,
17 consistent with the use of such terms by the Department of
18 Labor and Employment Security for the purpose of unemployment
19 compensation tax, resulting directly from a project in this
20 state. This number does not include temporary construction
21 jobs involved with the construction of facilities for the
22 project and which are not associated with the implementation
23 of the site rehabilitation as provided in s. 376.80.

24 (g) "Office" means the Office of Tourism, Trade, and
25 Economic Development.

26 (h) "Project" means the creation of a new business or
27 the expansion of an existing business as defined in s.
28 288.106.

29 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.--There
30 shall be allowed from the account a bonus refund of \$2,500 to
31 any qualified target industry business or other eligible

1 business as defined in paragraph (1)(e)for each new Florida
2 job created in a brownfield which is claimed on the qualified
3 target industry business's annual refund claim authorized in
4 s. 288.106(6) or other similar annual claim procedure for
5 other eligible business as defined in paragraph (1)(e)and
6 approved by the office as specified in the final order issued
7 by the director.

8 (3) CRITERIA.--The minimum criteria for participation
9 in the brownfield redevelopment bonus refund are:

10 (a) The creation of at least 10 new full-time
11 permanent jobs. Such jobs shall not include construction or
12 site rehabilitation jobs associated with the implementation of
13 a brownfield site agreement as described in s. 376.80(5).

14 (b) The completion of a fixed capital investment of at
15 least \$2 million in mixed-use business activities, including
16 multi-unit housing, commercial, retail, and industrial in
17 brownfield areas and which pay wages that are at least 80
18 percent of the average of all private-sector wages in the
19 county in which the business is located.

20 (c)~~(b)~~ That the designation as a brownfield will
21 diversify and strengthen the economy of the area surrounding
22 the site.

23 (d)~~(c)~~ That the designation as a brownfield will
24 promote capital investment in the area beyond that
25 contemplated for the rehabilitation of the site.

26 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS
27 REFUNDS.--

28 (a) To be eligible to receive a bonus refund for new
29 Florida jobs created in a brownfield, a business must have
30 been certified as a qualified target industry business under
31 s. 288.106 or eligible business as defined in paragraph (1)(e)

1 and must have indicated on the qualified target industry tax
2 refund application form submitted in accordance with s.
3 288.106(4) or other similar agreement for other eligible
4 business as defined in paragraph (1)(e)that the project for
5 which the application is submitted is or will be located in a
6 brownfield and that the business is applying for certification
7 as a qualified brownfield business under this section, and
8 must have signed a qualified target industry tax refund
9 agreement or other similar agreement for other eligible
10 business as defined in paragraph (1)(e)with the office which
11 indicates that the business has been certified as a qualified
12 target industry business or eligible business as defined in
13 paragraph (1)(e)~~agreement with the office which indicates~~
14 ~~that the business has been certified as a qualified target~~
15 ~~industry business~~ located in a brownfield and specifies the
16 schedule of brownfield redevelopment bonus refunds that the
17 business may be eligible to receive in each fiscal year.

18 (b) To be considered to receive an eligible brownfield
19 redevelopment bonus refund payment, the business meeting the
20 requirements of paragraph (a) must submit a claim once each
21 fiscal year on a claim form approved by the office which
22 indicates the location of the brownfield, the address of the
23 business facility's brownfield location, the name of the
24 brownfield in which it is located, the number of jobs created,
25 and the average wage of the jobs created by the business
26 within the brownfield as defined in s. 288.106 and in the case
27 of other eligible business as defined in paragraph (1)(e), the
28 amount of capital investment and the administrative rules and
29 policies for this ~~that~~ section or s. 288.106. ~~within the~~
30 ~~brownfield as defined in s. 288.106 and the administrative~~
31 ~~rules and policies for that section.~~

1 (c) The bonus refunds shall be available on the same
2 schedule as the qualified target industry tax refund payments
3 scheduled in the qualified target industry tax refund
4 agreement authorized in s. 288.106 or other similar agreement
5 for other eligible businesses as defined in paragraph (1)(e).

6 (d) After entering into a tax refund agreement as
7 provided in s. 288.106 or other similar agreement for other
8 eligible businesses as defined in paragraph (1)(e), an
9 eligible business may receive brownfield redevelopment bonus
10 refunds from the account pursuant to s. 288.106(3)(c).

11 (e) An eligible business that fraudulently claims a
12 refund under this section:

13 1. Is liable for repayment of the amount of the refund
14 to the account, plus a mandatory penalty in the amount of 200
15 percent of the tax refund, which shall be deposited into the
16 General Revenue Fund.

17 2. Commits a felony of the third degree, punishable as
18 provided in s. 775.082, s. 775.083, or s. 775.084.

19 (f) The office shall review all applications submitted
20 under s. 288.106 or other similar application forms for other
21 eligible businesses as defined in paragraph (1)(e) which
22 indicate that the proposed project will be located in a
23 brownfield and determine, with the assistance of the
24 Department of Environmental Protection, that the project
25 location is within a brownfield as provided in this act.

26 (g) The office shall approve all claims for a
27 brownfield redevelopment bonus refund payment that are found
28 to meet the requirements of paragraphs (b) and (d).

29 (h) The director, with such assistance as may be
30 required from the office and the Department of Environmental
31 Protection, shall specify by written final order the amount of

1 the brownfield redevelopment bonus refund that is authorized
2 for the qualified target industry business for the fiscal year
3 within 30 days after the date that the claim for the annual
4 tax refund is received by the office.

5 (i) The office shall approve applications for
6 certification pursuant to this section; however, the total of
7 tax refund payments scheduled in all active certifications for
8 any fiscal year shall not exceed \$3 million.

9 (j)~~(i)~~ The total amount of the bonus refunds approved
10 by the director under this section in any fiscal year must not
11 exceed the total amount appropriated to the Economic
12 Development Incentives Account for this purpose for the fiscal
13 year. In the event that the Legislature does not appropriate
14 an amount sufficient to satisfy projections by the office for
15 brownfield redevelopment bonus refunds under this section in a
16 fiscal year, the office shall, not later than July 15 of such
17 year, determine the proportion of each brownfield
18 redevelopment bonus refund claim which shall be paid by
19 dividing the amount appropriated for tax refunds for the
20 fiscal year by the projected total of brownfield redevelopment
21 bonus refund claims for the fiscal year. The amount of each
22 claim for a brownfield redevelopment bonus tax refund shall be
23 multiplied by the resulting quotient. If, after the payment
24 of all such refund claims, funds remain in the Economic
25 Development Incentives Account for brownfield redevelopment
26 tax refunds, the office shall recalculate the proportion for
27 each refund claim and adjust the amount of each claim
28 accordingly.

29 (k)~~(j)~~ Upon approval of the brownfield redevelopment
30 bonus refund, payment shall be made for the amount specified
31 in the final order. If the final order is appealed, payment

1 may not be made for a refund to the qualified target industry
2 business until the conclusion of all appeals of that order.

3 (5) ADMINISTRATION.--

4 (a) The office is authorized to verify information
5 provided in any claim submitted for tax credits under this
6 section with regard to employment and wage levels or the
7 payment of the taxes to the appropriate agency or authority,
8 including the Department of Revenue, the Department of Labor
9 and Employment Security, or any local government or authority.

10 (b) To facilitate the process of monitoring and
11 auditing applications made under this program, the office may
12 provide a list of qualified target industry businesses or
13 other eligible businesses as defined in paragraph (1)(e) to
14 the Department of Revenue, to the Department of Labor and
15 Employment Security, to the Department of Environmental
16 Protection, or to any local government authority. The office
17 may request the assistance of those entities with respect to
18 monitoring the payment of the taxes listed in s. 288.106(3).

19 Section 16. Paragraph (b) of subsection (3) of section
20 288.905, Florida Statutes, is amended to read:

21 288.905 Duties of the board of directors of Enterprise
22 Florida, Inc.--

23 (3)

24 (b)1. The strategic plan required under this section
25 shall include specific provisions for the stimulation of
26 economic development and job creation in rural areas and
27 midsize cities and counties of the state.

28 2. Enterprise Florida, Inc., shall involve local
29 governments, local and regional economic development
30 organizations, and other local, state, and federal economic,
31 international, and workforce development entities, both public

1 and private, in developing and carrying out policies,
2 strategies, and programs, seeking to partner and collaborate
3 to produce enhanced public benefit at a lesser cost.

4 3. Enterprise Florida, Inc., shall involve rural,
5 urban, small-business, and minority-business development
6 agencies and organizations, both public and private, in
7 developing and carrying out policies, strategies, and
8 programs.

9 4. Enterprise Florida, Inc., shall develop a
10 comprehensive marketing plan for redevelopment of brownfield
11 areas designated pursuant to s. 376.80. The plan must include,
12 but is not limited to, strategies to distribute information
13 about current designated brownfield areas and the available
14 economic incentives for redevelopment of brownfield areas.
15 Such strategies are to be used in the promotion of business
16 formation, expansion, recruitment, retention, and work-force
17 development programs.

18 Section 17. Section 290.007, Florida Statutes, is
19 amended to read:

20 290.007 State incentives available in enterprise zones
21 and brownfield areas.--The following incentives are provided
22 by the state to encourage the revitalization of enterprise
23 zones and brownfield areas designated under s. 376.80:

24 (1) The enterprise zone jobs credit and the designated
25 brownfield area jobs credit provided in s. 220.181.

26 (2) The enterprise zone or designated brownfield area
27 property tax credit provided in s. 220.182.

28 (3) The community contribution tax credits provided in
29 ss. 220.183 and 624.5105.

30 (4) The sales tax exemption for building materials
31 used in the rehabilitation of real property in enterprise

1 zones or designated brownfield areas provided in s.
2 212.08(5)(g).

3 (5) The sales tax exemption for business equipment
4 used in an enterprise zone or a designated brownfield area
5 provided in s. 212.08(5)(h).

6 (6) The sales tax exemption for electrical energy used
7 in an enterprise zone or a designated brownfield area provided
8 in s. 212.08(15).

9 (7) The enterprise zone jobs credit and the designated
10 brownfield area jobs credit against the sales tax provided in
11 s. 212.096.

12 (8) Notwithstanding any law to the contrary, the
13 Public Service Commission may allow public utilities and
14 telecommunications companies to grant discounts of up to 50
15 percent on tariffed rates for services to small businesses
16 located in an enterprise zone designated pursuant to s.
17 290.0065 or a brownfield area designated under s.376.80. Such
18 discounts may be granted for a period not to exceed 5 years.
19 For purposes of this subsection, "public utility" has the same
20 meaning as in s. 366.02(1) and "telecommunications company"
21 has the same meaning as in s. 364.02(12)~~s. 364.02(7)~~.

22 (9) The tax rebate pursuant to s. 212.20 for a person
23 or entity who establishes a new business or expands an
24 existing business in an enterprise zone or designated
25 brownfield area as provided in this subsection.

26 (a) As used in this section, the term:

27 1. "New business" means a business entity as defined
28 in s. 220.03(1)(e) authorized to do business in this state
29 which generates taxes imposed under chapter 212 from the use
30 and operation of the business and which commences operations
31

1 from property located in an enterprise zone or brownfield area
2 after it is designated as such.

3 2. "Expanded business" means any business entity as
4 defined in s. 220.03(1)(e) authorized to do business in this
5 state which generates taxes imposed under chapter 212 from the
6 use and operation of the business and which expands by or
7 through additions to real and personal property within an
8 enterprise zone or brownfield area after it is designated as
9 such.

10 (b) The Office of Tourism, Trade, and Economic
11 Development is responsible for certifying an applicant as a
12 new business or expanded business in an enterprise zone or
13 designated brownfield area. Each applicant shall file an
14 application with the Office of Tourism, Trade, and Economic
15 Development on a form prescribed by the Office of Tourism,
16 Trade, and Economic Development which provides:

17 1. Evidence that the new or expanded business is
18 located in an enterprise zone or designated brownfield area;

19 2. An economic analysis showing that the amount of the
20 revenues generated or to be generated by the taxes imposed
21 under chapter 212 from the use and operation of the business
22 will equal or exceed \$1 million annually;

23 3. In the case of an expanded business, evidence
24 indicating the amount of taxes imposed under chapter 212 with
25 respect to the use and operation of the business during the 12
26 consecutive months before the commencement of expansion; and

27 4. A sworn statement, under the penalty of perjury,
28 from the applicant or, if applicable, the applicant's general
29 contractor licensed in this state to make the improvements
30 necessary to accomplish the construction, reconstruction,
31 renovation, expansion, or rehabilitation of property where a

1 new or expanded business is located and operated, which states
2 the actual cost of the construction, reconstruction,
3 renovation, expansion, or rehabilitation of the property and
4 of the applicant's share of cleanup costs if in a brownfield
5 area.

6 (c) The Office of Tourism, Trade, and Economic
7 Development shall certify an applicant within 90 days of its
8 submission of a complete application. The Office of Tourism,
9 Trade, and Economic Development may adopt rules pursuant to
10 ss. 120.536(1) and 120.54 to administer this section.

11 (d) An applicant certified as a new or expanded
12 business in an enterprise zone or designated brownfield area
13 may use funds provided pursuant to s. 212.20(6)(f)5.d. only
14 for the public purpose of paying for the construction,
15 reconstruction, renovation, expansion, or rehabilitation of
16 the premises from which the business is located and operated
17 or for the reimbursement of such costs and for the cleanup
18 costs incurred in a brownfield area which have not otherwise
19 been reimbursed to the applicant, directly or indirectly, by
20 operation of another provision of law.

21 (e) The amount of the tax rebate under s. 212.20 to be
22 provided to a business certified pursuant to this section
23 shall be computed annually as follows:

24 1. In the case of a new business in an enterprise zone
25 or designated brownfield area, an amount equal to 75 percent
26 of the taxes imposed under chapter 212 generated each year
27 from the business; and

28 2. In the case of an expanded business in an
29 enterprise zone or designated brownfield area, an amount equal
30 to 75 percent of the additional taxes imposed under chapter
31 212 generated each year from the business in excess of the

1 taxes imposed under chapter 212 generated from the business
2 during the 12 months before the commencement of expansion of
3 the business.

4
5 In no event shall the total amount of the tax rebate provided
6 under s. 212.20(6)(f)5.d. to a business certified hereunder
7 exceed 75 percent of the cost of construction, reconstruction,
8 renovation, expansion, or rehabilitation of the property where
9 the business is located and operated and the cost of cleanup
10 of contamination of property in a brownfield area, as set
11 forth in the application submitted to the Office of Tourism,
12 Trade, and Economic Development pursuant to this section.

13 Section 18. Section 376.301, Florida Statutes, is
14 amended to read:

15 376.301 Definitions of terms used in ss.
16 376.30-376.319, 376.70, and 376.75.--When used in ss.
17 376.30-376.319, 376.70, and 376.75, unless the context clearly
18 requires otherwise, the term:

19 (1) "Aboveground hazardous substance tank" means any
20 stationary aboveground storage tank and onsite integral piping
21 that contains hazardous substances which are liquid at
22 standard temperature and pressure and has an individual
23 storage capacity greater than 110 gallons.

24 (2) "Additive effects" means a scientific principle
25 that the toxicity that occurs as a result of exposure is the
26 sum of the toxicities of the individual chemicals to which the
27 individual is exposed.

28 (3) "Antagonistic effects" means a scientific
29 principle that the toxicity that occurs as a result of
30 exposure is less than the sum of the toxicities of the
31 individual chemicals to which the individual is exposed.

1 (4) "Backlog" means reimbursement obligations incurred
2 pursuant to s. 376.3071(12), prior to March 29, 1995, or
3 authorized for reimbursement under the provisions of s.
4 376.3071(12), pursuant to chapter 95-2, Laws of Florida.
5 Claims within the backlog are subject to adjustment, where
6 appropriate.

7 (5) "Barrel" means 42 U.S. gallons at 60 degrees
8 Fahrenheit.

9 (6) "Bulk product facility" means a waterfront
10 location with at least one aboveground tank with a capacity
11 greater than 30,000 gallons which is used for the storage of
12 pollutants.

13 (7) "Cattle-dipping vat" means any structure,
14 excavation, or other facility constructed by any person, or
15 the site where such structure, excavation, or other facility
16 once existed, for the purpose of treating cattle or other
17 livestock with a chemical solution pursuant to or in
18 compliance with any local, state, or federal governmental
19 program for the prevention, suppression, control, or
20 eradication of any dangerous, contagious, or infectious
21 diseases.

22 (8) "Compression vessel" means any stationary
23 container, tank, or onsite integral piping system, or
24 combination thereof, which has a capacity of greater than 110
25 gallons, that is primarily used to store pollutants or
26 hazardous substances above atmospheric pressure or at a
27 reduced temperature in order to lower the vapor pressure of
28 the contents. Manifold compression vessels that function as a
29 single vessel shall be considered as one vessel.

30 (9) "Contaminant" means any physical, chemical,
31 biological, or radiological substance present in any medium

1 which may result in adverse effects to human health or the
2 environment or which creates an adverse nuisance,
3 organoleptic, or aesthetic condition in groundwater.

4 (10) "Contaminated site" means any contiguous land,
5 sediment, surface water, or groundwater areas that contain
6 contaminants that may be harmful to human health or the
7 environment.

8 (11) "Department" means the Department of
9 Environmental Protection.

10 (12) "Discharge" includes, but is not limited to, any
11 spilling, leaking, seeping, pouring, misapplying, emitting,
12 emptying, releasing, or dumping of any pollutant or hazardous
13 substance which occurs and which affects lands and the surface
14 and ground waters of the state not regulated by ss.
15 376.011-376.21.

16 (13) "Drycleaning facility" means a commercial
17 establishment that operates or has at some time in the past
18 operated for the primary purpose of drycleaning clothing and
19 other fabrics utilizing a process that involves any use of
20 drycleaning solvents. The term "drycleaning facility" includes
21 laundry facilities that use drycleaning solvents as part of
22 their cleaning process. The term does not include a facility
23 that operates or has at some time in the past operated as a
24 uniform rental company or a linen supply company regardless of
25 whether the facility operates as or was previously operated as
26 a drycleaning facility.

27 (14) "Drycleaning solvents" means any and all
28 nonaqueous solvents used in the cleaning of clothing and other
29 fabrics and includes perchloroethylene (also known as
30 tetrachloroethylene) and petroleum-based solvents, and their
31 breakdown products. For purposes of this definition,

1 "drycleaning solvents" only includes those drycleaning
2 solvents originating from use at a drycleaning facility or by
3 a wholesale supply facility.

4 (15) "Dry drop-off facility" means any commercial
5 retail store that receives from customers clothing and other
6 fabrics for drycleaning or laundering at an offsite
7 drycleaning facility and that does not clean the clothing or
8 fabrics at the store utilizing drycleaning solvents.

9 (16) "Engineering controls" means modifications to a
10 site to reduce or eliminate the potential for exposure to
11 petroleum products' chemicals of concern, drycleaning
12 solvents, or other contaminants. Such modifications may
13 include, but are not limited to, physical or hydraulic control
14 measures, capping, point of use treatments, or slurry walls.

15 (17) "Wholesale supply facility" means a commercial
16 establishment that supplies drycleaning solvents to
17 drycleaning facilities.

18 (18) "Facility" means a nonresidential location
19 containing, or which contained, any underground stationary
20 tank or tanks which contain hazardous substances or pollutants
21 and have individual storage capacities greater than 110
22 gallons, or any aboveground stationary tank or tanks which
23 contain pollutants which are liquids at standard ambient
24 temperature and pressure and have individual storage
25 capacities greater than 550 gallons. This subsection shall not
26 apply to facilities covered by chapter 377, or containers
27 storing solid or gaseous pollutants, and agricultural tanks
28 having storage capacities of less than 550 gallons.

29 (19) "Flow-through process tank" means an aboveground
30 tank that contains hazardous substances or specified mineral
31 acids as defined in s. 376.321 and that forms an integral part

1 of a production process through which there is a steady,
2 variable, recurring, or intermittent flow of materials during
3 the operation of the process. Flow-through process tanks
4 include, but are not limited to, seal tanks, vapor recovery
5 units, surge tanks, blend tanks, feed tanks, check and delay
6 tanks, batch tanks, oil-water separators, or tanks in which
7 mechanical, physical, or chemical change of a material is
8 accomplished.

9 (20) "Hazardous substances" means those substances
10 defined as hazardous substances in the Comprehensive
11 Environmental Response, Compensation and Liability Act of
12 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the
13 Superfund Amendments and Reauthorization Act of 1986.

14 (21) "Institutional controls" means the restriction on
15 use or access to a site to eliminate or minimize exposure to
16 petroleum products' chemicals of concern, drycleaning
17 solvents, or other contaminants. Such restrictions may
18 include, but are not limited to, deed restrictions,
19 restrictive covenants, or conservation easements ~~use~~
20 ~~restrictions, or restrictive zoning.~~

21 (22) "Laundering on a wash, dry, and fold basis" means
22 the service provided by the owner or operator of a
23 coin-operated laundry to its customers whereby an employee of
24 the laundry washes, dries, and folds laundry for its
25 customers.

26 (23) "Marine fueling facility" means a commercial or
27 recreational coastal facility, excluding a bulk product
28 facility, providing fuel to vessels.

29 (24) "Natural attenuation" means a verifiable an
30 approach to site rehabilitation that allows natural processes
31 to contain the spread of contamination and reduce the

1 concentrations of contaminants in contaminated groundwater and
2 soil. Natural attenuation processes may include the following:
3 sorption, biodegradation, chemical reactions with subsurface
4 materials, diffusion, dispersion, and volatilization.

5 (25) "Operator" means any person operating a facility,
6 whether by lease, contract, or other form of agreement.

7 (26) "Owner" means any person owning a facility.

8 (27) "Person" means any individual, partner, joint
9 venture, or corporation; any group of the foregoing, organized
10 or united for a business purpose; or any governmental entity.

11 (28) "Person in charge" means the person on the scene
12 who is in direct, responsible charge of a facility from which
13 pollutants are discharged, when the discharge occurs.

14 (29) "Person responsible for conducting site
15 rehabilitation" means the site owner, operator, or the person
16 designated by the site owner or operator on the reimbursement
17 application. Mortgage holders and trust holders may be
18 eligible to participate in the reimbursement program pursuant
19 to s. 376.3071(12).

20 (30) "Petroleum" includes:

21 (a) Oil, including crude petroleum oil and other
22 hydrocarbons, regardless of gravity, which are produced at the
23 well in liquid form by ordinary methods and which are not the
24 result of condensation of gas after it leaves the reservoir;
25 and

26 (b) All natural gas, including casinghead gas, and all
27 other hydrocarbons not defined as oil in paragraph (a).

28 (31) "Petroleum product" means any liquid fuel
29 commodity made from petroleum, including, but not limited to,
30 all forms of fuel known or sold as diesel fuel, kerosene, all
31 forms of fuel known or sold as gasoline, and fuels containing

1 a mixture of gasoline and other products, excluding liquefied
2 petroleum gas and American Society for Testing and Materials
3 (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual
4 oils, intermediate fuel oils (IFO) used for marine bunkering
5 with a viscosity of 30 and higher, asphalt oils, and
6 petrochemical feedstocks.

7 (32) "Petroleum products' chemicals of concern" means
8 the constituents of petroleum products, including, but not
9 limited to, xylene, benzene, toluene, ethylbenzene,
10 naphthalene, and similar chemicals, and constituents in
11 petroleum products, including, but not limited to, methyl
12 tert-butyl ether (MTBE), lead, and similar chemicals found in
13 additives, provided the chemicals of concern are present as a
14 result of a discharge of petroleum products.

15 (33) "Petroleum storage system" means a stationary
16 tank not covered under the provisions of chapter 377, together
17 with any onsite integral piping or dispensing system
18 associated therewith, which is used, or intended to be used,
19 for the storage or supply of any petroleum product. Petroleum
20 storage systems may also include oil/water separators, and
21 other pollution control devices installed at petroleum product
22 terminals as defined in this chapter and bulk product
23 facilities pursuant to, or required by, permits or best
24 management practices in an effort to control surface discharge
25 of pollutants. Nothing herein shall be construed to allow a
26 continuing discharge in violation of department rules.

27 (34) "Pollutants" includes any "product" as defined in
28 s. 377.19(11), pesticides, ammonia, chlorine, and derivatives
29 thereof, excluding liquefied petroleum gas.

30 (35) "Pollution" means the presence on the land or in
31 the waters of the state of pollutants in quantities which are

1 or may be potentially harmful or injurious to human health or
2 welfare, animal or plant life, or property or which may
3 unreasonably interfere with the enjoyment of life or property,
4 including outdoor recreation.

5 (36) "Real property owner" means the individual or
6 entity that is vested with ownership, dominion, or legal or
7 rightful title to the real property, or which has a ground
8 lease interest in the real property, on which a drycleaning
9 facility or wholesale supply facility is or has ever been
10 located.

11 (37) "Response action" means any activity, including
12 evaluation, planning, design, engineering, construction, and
13 ancillary services, which is carried out in response to any
14 discharge, release, or threatened release of a hazardous
15 substance, pollutant, or other contaminant from a facility or
16 site identified by the department under the provisions of ss.
17 376.30-376.319.

18 (38) "Response action contractor" means a person who
19 is carrying out any response action, including a person
20 retained or hired by such person to provide services relating
21 to a response action.

22 (39) "Risk reduction" means the lowering or
23 elimination of the level of risk posed to human health or the
24 environment through interim remedial actions, remedial action,
25 or institutional and, if appropriate, engineering controls.

26 (40)~~(39)~~ "Secretary" means the Secretary of
27 Environmental Protection.

28 (41)~~(40)~~ "Site rehabilitation" means the assessment of
29 site contamination and the remediation activities that reduce
30 the levels of contaminants at a site through accepted
31 treatment methods to meet the cleanup target levels

1 established for that site. For purposes of sites subject to
2 the Resource Conservation and Recovery Act, as amended, the
3 term includes removal, decontamination, and corrective action
4 of releases of hazardous substances.

5 (42)~~(41)~~ "Source removal" means the removal of free
6 product, or the removal of contaminants from soil or sediment
7 that has been contaminated to the extent that leaching to
8 groundwater or surface water has occurred or is occurring.

9 (43)~~(42)~~ "Storage system" means a stationary tank not
10 covered under the provisions of chapter 377, together with any
11 onsite integral piping or dispensing system associated
12 therewith, which is or has been used for the storage or supply
13 of any petroleum product, pollutant, or hazardous substance as
14 defined herein, and which is registered with the Department of
15 Environmental Protection under this chapter or any rule
16 adopted pursuant hereto.

17 (44)~~(43)~~ "Synergistic effects" means a scientific
18 principle that the toxicity that occurs as a result of
19 exposure is more than the sum of the toxicities of the
20 individual chemicals to which the individual is exposed.

21 (45)~~(44)~~ "Terminal facility" means any structure,
22 group of structures, motor vehicle, rolling stock, pipeline,
23 equipment, or related appurtenances which are used or capable
24 of being used for one or more of the following purposes:
25 pumping, refining, drilling for, producing, storing, handling,
26 transferring, or processing pollutants, provided such
27 pollutants are transferred over, under, or across any water,
28 estuaries, tidal flats, beaches, or waterfront lands,
29 including, but not limited to, any such facility and related
30 appurtenances owned or operated by a public utility or a
31 governmental or quasi-governmental body. In the event of a

1 ship-to-ship transfer of pollutants, the vessel going to or
2 coming from the place of transfer and a terminal facility
3 shall also be considered a terminal facility. For the purposes
4 of ss. 376.30-376.319, the term "terminal facility" shall not
5 be construed to include spill response vessels engaged in
6 response activities related to removal of pollutants, or
7 temporary storage facilities created to temporarily store
8 recovered pollutants and matter, or waterfront facilities
9 owned and operated by governmental entities acting as agents
10 of public convenience for persons engaged in the drilling for
11 or pumping, storing, handling, transferring, processing, or
12 refining of pollutants. However, each person engaged in the
13 drilling for or pumping, storing, handling, transferring,
14 processing, or refining of pollutants through a waterfront
15 facility owned and operated by such a governmental entity
16 shall be construed as a terminal facility.

17 ~~(46)~~~~(45)~~ "Transfer" or "transferred" includes
18 onloading, offloading, fueling, bunkering, lightering, removal
19 of waste pollutants, or other similar transfers, between
20 terminal facility and vessel or vessel and vessel.

21 Section 19. Section 376.30701, Florida Statutes, is
22 created to read:

23 376.30701 Application of risk-based corrective action
24 principles to contaminated sites; applicability; legislative
25 intent; rulemaking authority; contamination cleanup criteria;
26 limitations; reopeners; mapping; registry.--

27 (1) APPLICABILITY.--

28 (a) This section shall not create or establish any new
29 liability for site rehabilitation at contaminated sites. This
30 section is intended to describe a risk-based corrective action
31 process to be applied at sites where legal responsibility for

1 site rehabilitation exists pursuant to other provisions of
2 chapter 376 or chapter 403.

3 (b) This section shall apply to all contaminated sites
4 resulting from a discharge of pollutants or hazardous
5 substances where legal responsibility for site rehabilitation
6 exists pursuant to other provisions of chapter 376 or chapter
7 403 except for those contaminated sites subject to the
8 risk-based corrective action cleanup criteria established for
9 the petroleum, brownfields, and drycleaning programs pursuant
10 to ss. 376.3071, 376.81, and 376.3078, respectively.

11 (c) This section shall apply to a variety of site
12 rehabilitation scenarios including, but not limited to, site
13 rehabilitation conducted voluntarily, conducted pursuant to
14 the department's enforcement authority, or conducted as a
15 state-managed cleanup by the department.

16 (d) This section, and any rules adopted pursuant
17 thereto, shall apply retroactively to all existing
18 contaminated sites where legal responsibility for site
19 rehabilitation exists pursuant to other provisions of chapter
20 376 or chapter 403 except those sites for which as of March 1,
21 2000, a report has been submitted to the department which
22 documents that cleanup has been completed, at sites for which
23 cleanup target levels have been accepted by the department in
24 an approved technical document, current permit, or other
25 written agreement, and at those sites that have received a No
26 Further Action Order or a Site Rehabilitation Completion Order
27 from the department. However, the person responsible for site
28 rehabilitation can elect to have the provisions of this
29 section, including cleanup target levels established pursuant
30 thereto, apply in lieu of those in an approved technical
31 document, current permit, or other written agreement.

1 (e) The cleanup criteria established in subsection (2)
2 shall apply as Applicable or Relevant and Appropriate
3 Requirements to all contaminated sites in Florida that have
4 been identified to qualify for listing, or are listed, on the
5 National Priority List pursuant to the Comprehensive
6 Environmental Response, Compensation, and Liability Act of
7 1980 as amended by the Superfund Amendments and
8 Reauthorization Act of 1986, and as subsequently amended.

9 (f) This section does not affect the goal of
10 expediency in emergency response actions to releases to soil
11 that result in soil contamination at levels above the soil
12 target cleanup levels. The need for uniformity in requirements
13 and accountability necessitates that emergency response
14 actions to releases be subject solely to the requirements of
15 the department, the Department of Community Affairs, and any
16 federal agencies with statewide enforcement authority that are
17 given jurisdiction over releases by federal law. The
18 risk-based corrective action process at these sites shall
19 allow department-recognized field screening techniques to be
20 used.

21 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP
22 CRITERIA.--It is the intent of the Legislature to protect the
23 health of all people under actual circumstances of exposure.
24 By July 1, 2001, the secretary of the department shall
25 establish criteria by rule for the purpose of determining, on
26 a site-specific basis, the rehabilitation program tasks that
27 comprise a site rehabilitation program, including a voluntary
28 site rehabilitation program, and the level at which a
29 rehabilitation program task and a site rehabilitation program
30 may be deemed completed. In establishing these rules, the
31 department shall apply, to the maximum extent feasible, a

1 risk-based corrective action process to achieve protection of
2 human health and safety and the environment in a
3 cost-effective manner based on the principles set forth in
4 this subsection. These rules shall prescribe a phased
5 risk-based corrective-action process that is iterative and
6 that tailors site rehabilitation tasks to site-specific
7 conditions and risk. The department and the person responsible
8 for site rehabilitation are encouraged to establish decision
9 points at which risk management decisions will be made. The
10 department shall provide an early decision, when requested,
11 regarding applicable exposure factors and a risk management
12 approach based on the current and future land use at the site.
13 These rules must also include protocols for the use of natural
14 attenuation, the use of institutional and engineering
15 controls, and the issuance of "no further action" letters. The
16 criteria for determining what constitutes a rehabilitation
17 program task or completion of a site rehabilitation program
18 task or site rehabilitation program, including a voluntary
19 site rehabilitation program, must:

20 (a) Consider the current exposure and potential risk
21 of exposure to humans and the environment, including multiple
22 pathways of exposure. The physical, chemical, and biological
23 characteristics of each contaminant must be considered in
24 order to determine the feasibility of risk-based corrective
25 action assessment.

26 (b) Establish the point of compliance at the source of
27 the contamination. However, the department is authorized to
28 temporarily move the point of compliance to the boundary of
29 the property, or to the edge of the plume when the plume is
30 within the property boundary, while cleanup, including cleanup
31 through natural attenuation processes in conjunction with

1 appropriate monitoring, is proceeding. The department also is
2 authorized, pursuant to criteria provided for in this section,
3 to temporarily extend the point of compliance beyond the
4 property boundary with appropriate monitoring, if such
5 extension is needed to facilitate natural attenuation or to
6 address the current conditions of the plume, provided that
7 human health, public safety, and the environment are
8 protected. When temporarily extending the point of compliance
9 beyond the property boundary, it cannot be extended further
10 than the lateral extent of the plume, if known, at the time of
11 execution of a cleanup agreement, if required, or the lateral
12 extent of the plume as defined at the time of site assessment.
13 Temporary extension of the point of compliance beyond the
14 property boundary, as provided in this paragraph, must include
15 actual notice by the person responsible for site
16 rehabilitation to local governments and the owners of any
17 property into which the point of compliance is allowed to
18 extend and constructive notice to residents and business
19 tenants of the property into which the point of compliance is
20 allowed to extend. Persons receiving notice pursuant to this
21 paragraph shall have the opportunity to comment within 30 days
22 of receipt of the notice.

23 (c) Ensure that the site-specific cleanup goal is that
24 all contaminated sites being cleaned up under this section
25 ultimately achieve the applicable cleanup target levels
26 provided in this subsection. In the circumstances provided
27 below, and after constructive notice and opportunity to
28 comment within 30 days from receipt of the notice to local
29 government, to owners of any property into which the point of
30 compliance is allowed to extend, and to residents on any
31 property into which the point of compliance is allowed to

1 extend, the department may allow concentrations of
2 contaminants to temporarily exceed the applicable cleanup
3 target levels while cleanup, including cleanup through natural
4 attenuation processes in conjunction with appropriate
5 monitoring, is proceeding, if human health, public safety, and
6 the environment are protected.

7 (d) Allow the use of institutional or engineering
8 controls at contaminated sites being cleaned up under this
9 section, where appropriate, to eliminate or control the
10 potential exposure to contaminants of humans or the
11 environment. The use of controls must be preapproved by the
12 department and only after constructive notice and opportunity
13 to comment within 30 days from receipt of notice is provided
14 to local governments, to owners of any property into which the
15 point of compliance is allowed to extend, and to residents on
16 any property into which the point of compliance is allowed to
17 extend. When institutional or engineering controls are
18 implemented to control exposure, the removal of the controls
19 must have prior department approval and must be accompanied by
20 the resumption of active cleanup, or other approved controls,
21 unless cleanup target levels under this section have been
22 achieved.

23 (e) Consider the additive effects of contaminants.
24 The synergistic and antagonistic effects must also be
25 considered when the scientific data become available.

26 (f) Take into consideration individual site
27 characteristics, which shall include, but not be limited to,
28 the current and projected use of the affected groundwater and
29 surface water in the vicinity of the site, current and
30 projected land uses of the area affected by the contamination,
31 the exposed population, the degree and extent of

1 contamination, the rate of contaminant migration, the apparent
2 or potential rate of contaminant degradation through natural
3 attenuation processes, the location of the plume, and the
4 potential for further migration in relation to site property
5 boundaries.

6 (g) Apply state water quality standards as follows:

7 1. Cleanup target levels for each contaminant found in
8 groundwater shall be the applicable state water quality
9 standards. Where such standards do not exist, the cleanup
10 target levels for groundwater shall be based on the minimum
11 criteria specified in department rule. The department shall
12 apply the following, as appropriate, in establishing the
13 applicable cleanup target levels: calculations using a
14 lifetime cancer risk level of 1.0E-6; a hazard index of 1 or
15 less; the best achievable detection limit; and nuisance,
16 organoleptic, and aesthetic considerations. However, the
17 department shall not require site rehabilitation to achieve a
18 cleanup target level for any individual contaminant that is
19 more stringent than the site-specific, naturally occurring
20 background concentration for that contaminant.

21 2. Where surface waters are exposed to contaminated
22 groundwater, the cleanup target levels for the contaminants
23 shall be based on the more protective of the groundwater or
24 surface water standards as established by department rule. The
25 point of measuring compliance with the surface water standards
26 shall be in the groundwater immediately adjacent to the
27 surface water body.

28 3. The department shall approve alternative cleanup
29 target levels in conjunction with institutional and
30 engineering controls, if needed, based upon an applicant's
31 demonstration, using site-specific data, modeling results,

1 risk assessment studies, risk-reduction techniques, or a
2 combination thereof, that human health, public safety, and the
3 environment are protected to the same degree as provided in
4 subparagraphs 1. and 2. Where a state water-quality standard
5 is applicable, a deviation may not result in the application
6 of cleanup target levels more stringent than the standard. In
7 determining whether it is appropriate to establish alternative
8 cleanup target levels at a site, the department must consider
9 the effectiveness of source removal, if any, that has been
10 completed at the site and the practical likelihood of the use
11 of low yield or poor quality groundwater, the use of
12 groundwater near marine surface water bodies, the current and
13 projected use of the affected groundwater in the vicinity of
14 the site, or the use of groundwater in the immediate vicinity
15 of the contaminated area, where it has been demonstrated that
16 the groundwater contamination is not migrating away from such
17 localized source, provided human health, public safety, and
18 the environment are protected.

19 (h) Provide for the department to issue a "no further
20 action order," with conditions including, but not limited to,
21 the use of institutional or engineering controls where
22 appropriate, when alternative cleanup target levels
23 established pursuant to subparagraph (g)3. have been achieved,
24 or when the person responsible for site rehabilitation can
25 demonstrate that the cleanup target level is unachievable
26 within available technologies. Prior to issuing such an
27 order, the department shall consider the feasibility of an
28 alternative site rehabilitation technology at the contaminated
29 site.

30 (i) Establish appropriate cleanup target levels for
31 soils.

1 1. In establishing soil cleanup target levels for
2 human exposure to each contaminant found in soils from the
3 land surface to 2 feet below land surface, the department
4 shall apply the following, as appropriate: calculations using
5 a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or
6 less; and the best achievable detection limit. However, the
7 department shall not require site rehabilitation to achieve a
8 cleanup target level for an individual contaminant that is
9 more stringent than the site-specific, naturally occurring
10 background concentration for that contaminant. Institutional
11 controls or other methods shall be used to prevent human
12 exposure to contaminated soils more than 2 feet below the land
13 surface. Any removal of such institutional controls shall
14 require such contaminated soils to be remediated.

15 2. Leachability-based soil target levels shall be
16 based on protection of the groundwater cleanup target levels
17 or the alternate cleanup target levels for groundwater
18 established pursuant to this paragraph, as appropriate. Source
19 removal and other cost-effective alternatives that are
20 technologically feasible shall be considered in achieving the
21 leachability soil target levels established by the department.
22 The leachability goals shall not be applicable if the
23 department determines, based upon individual site
24 characteristics and in conjunction with institutional and
25 engineering controls, if needed, that contaminants will not
26 leach into the groundwater at levels that pose a threat to
27 human health, public safety, or the environment.

28 3. The department shall approve alternative cleanup
29 target levels in conjunction with institutional and
30 engineering controls, if needed, based upon an applicant's
31 demonstration, using site-specific data, modeling results,

1 risk assessment studies, risk-reduction techniques, or a
2 combination thereof, that human health, public safety, and the
3 environment are protected to the same degree as provided in
4 subparagraphs 1. and 2.

5
6 The department shall require source removal, if warranted and
7 cost-effective. Once source removal at a site is complete,
8 the department shall reevaluate the site to determine the
9 degree of active cleanup needed to continue. Further, the
10 department shall determine if the reevaluated site qualifies
11 for monitoring only or if no further action is required to
12 rehabilitate the site. If additional site rehabilitation is
13 necessary to reach "no further action" status, the department
14 is encouraged to utilize natural attenuation and monitoring
15 where site conditions warrant.

16 (3) LIMITATIONS.--The cleanup criteria established
17 pursuant to this section govern only site rehabilitation
18 activities occurring at the contaminated site. Removal of
19 contaminated media from a site for offsite relocation or
20 treatment must be in accordance with all applicable federal,
21 state, and local laws and regulations.

22 (4) REOPENERS.--Upon completion of site rehabilitation
23 in compliance with subsection (2), additional site
24 rehabilitation is not required unless it is demonstrated:

25 (a) That fraud was committed in demonstrating site
26 conditions or completion of site rehabilitation;

27 (b) That new information confirms the existence of an
28 area of previously unknown contamination that exceeds the
29 site-specific rehabilitation levels established in accordance
30 with subsection (2), or that otherwise poses the threat of

31

1 real and substantial harm to public health, safety, or the
2 environment;

3 (c) That the remediation efforts failed to achieve the
4 site rehabilitation criteria established under this section;

5 (d) That the level of risk is increased beyond the
6 acceptable risk established under subsection (2) due to
7 substantial changes in exposure conditions, such as a change
8 in land use from nonresidential to residential use. Any person
9 who changes the land use of the site, thus causing the level
10 of risk to increase beyond the acceptable risk level, may be
11 required by the department to undertake additional remediation
12 measures to assure that human health, public safety, and the
13 environment are protected consistent with this section; or

14 (e) That a new discharge of pollutants or hazardous
15 substances or disposal of solid waste or hazardous waste
16 occurs at the site subsequent to the issuance of a "no further
17 action" letter or site rehabilitation completion order
18 associated with the original contamination being addressed
19 pursuant to this section.

20 (5) MAPPING.--Notwithstanding the exceptions in
21 paragraph (1)(b), if an institutional control is implemented
22 at any contaminated site, including sites in the petroleum,
23 brownfields, or drycleaning programs, the property owner must
24 provide information regarding the institutional control to the
25 local government for mapping purposes. The local government
26 must then note the existence of the institutional control on
27 any relevant local land use and zoning maps with a
28 cross-reference to the department's site registry developed
29 pursuant to subsection (6). If the type of institutional
30 control used requires recording with the local government,
31 then the map notation shall also provide a cross-reference to

1 the book and page number where recorded. When a local
2 government is provided with evidence that the department has
3 subsequently issued a No Further Action Order without
4 institutional controls for a site currently noted on such
5 maps, the local government shall remove the notation.

6 (6) REGISTRY.--Notwithstanding the exceptions in
7 paragraph (1)(b), the department shall prepare and maintain a
8 registry of all contaminated sites subject to institutional
9 and engineering controls, in order to provide a mechanism for
10 the public and local governments to: monitor the status of
11 these controls; monitor the department's short-term and
12 long-term protection of human health and the environment in
13 relation to these sites; and evaluate economic revitalization
14 efforts in these areas. At a minimum, the registry shall
15 include the type of institutional or engineering controls
16 employed at a particular site, types of contaminants and
17 affected media, land use limitations, and the county in which
18 the site is located. Sites listed on the registry at which the
19 department has subsequently issued a No Further Action Order
20 without institutional controls shall be removed from the
21 registry. The department shall make the registry available to
22 the public and local governments within 1 year after the
23 effective date of this act. The department shall provide local
24 governments with actual notice when the registry becomes
25 available. Local zoning and planning offices shall post
26 information on how to access the registry in public view.

27 Section 20. Section 376.30702, Florida Statutes, is
28 created to read:

29 376.30702 The State-Owned-Lands Cleanup Program;
30 findings; intent; purpose; program requirements; limited
31 liability protection; cost recovery.--

1 (1) FINDINGS; INTENT.--In addition to the legislative
2 findings set forth in s. 376.30, the Legislature finds and
3 declares that:

4 (a) Significant quantities of pollutants or hazardous
5 substances have been discharged in the past on state-owned
6 lands. Generally, these discharges have occurred as part of
7 the normal operation of facilities that existed on the
8 property. Many of these discharges occurred prior to the state
9 acquiring title to the property, or the discharges resulted
10 from the acts of tenants or lessees of the state-owned lands.

11 (b) These discharges of pollutants and hazardous
12 substances on state-owned lands pose a significant threat to
13 the quality of the groundwaters and inland surface waters of
14 this state.

15 (c) Where contamination of the groundwater or surface
16 water has occurred, remedial measures have often been delayed
17 for long periods while determinations as to liability and the
18 extent of liability have been made, and such delays have
19 resulted in the continuation and intensification of the threat
20 to the public health, safety, and welfare; in greater damage
21 to the environment; and in significantly higher costs to
22 contain and remove the contamination.

23 (d) Adequate financial resources must be readily
24 available to provide for the expeditious supply of safe and
25 reliable alternative sources of potable water to affected
26 persons and to provide a means for investigation and
27 rehabilitation without delay of contaminated sites on
28 state-owned lands.

29 (e) Site rehabilitation at contaminated sites on
30 state-owned lands should be based on the actual risk that
31 contamination may pose to the environment and public health,

1 taking into account current and future land and water use and
2 the degree to which contamination may spread and place the
3 public or the environment at risk.

4 (2) CREATION; PURPOSES OF PROGRAM.--

5 (a) There is created the Florida State-Owned-Lands
6 Cleanup Program to be administered by the department. To
7 encourage detection, reporting, and cleanup of contamination
8 on state-owned lands, the department shall, within the
9 guidelines established in this section, implement a cleanup
10 program to provide state-funded and state-managed site
11 rehabilitation for all state-owned property contaminated by
12 discharges of pollutants or hazardous substances that are
13 reported to the department. It is not the intent of this
14 program to provide funding for environmental compliance for
15 ongoing operations on state-owned lands.

16 (b) Continuation of this program is subject to an
17 annual appropriation from the Legislature. Continued state
18 funding will not be considered an entitlement or a vested
19 right under this section. The department shall not obligate
20 funds in excess of the annual appropriation for this program.

21 (c) Whenever, in its determination, incidents of
22 contamination on state-owned lands caused by pollutants or
23 hazardous substances may pose a threat to the environment or
24 the public health, safety, or welfare, the department shall
25 obligate moneys available under this section to provide for:

26 1. Prompt investigation and assessment of the
27 contaminated site.

28 2. Expeditious treatment, restoration, or replacement
29 of potable water supplies as provided in s. 376.30(3)(c)1.

30 3. Rehabilitation of contaminated sites, which shall
31 consist of rehabilitation of affected soil, groundwater,

1 sediment and surface waters, using the most cost-effective
2 alternative that is technologically feasible and reliable and
3 that provides adequate protection of the public health,
4 safety, and welfare and minimizes environmental damage, in
5 accordance with the rehabilitation criteria established by the
6 department under s. 376.30701, except that nothing in this
7 subsection may be construed to authorize the department to
8 obligate funds for payment of costs that may be associated
9 with, but are not integral to, site rehabilitation.

10 4. Maintenance and monitoring of contaminated sites.

11 5. Inspection and supervision of activities described
12 in this subsection.

13 6. Payment of expenses incurred by the department in
14 its efforts to obtain from responsible parties the payment or
15 recovery of reasonable costs resulting from the activities
16 described in this subsection.

17 7. Payment of any other reasonable costs of
18 administration, including those administrative costs incurred
19 by the Department of Health in providing field and laboratory
20 services, toxicological risk assessment, and other assistance
21 to the department in the investigation of drinking water
22 contamination complaints and costs associated with public
23 information and education activities.

24 8. Reasonable costs of restoring property as nearly as
25 practicable to the conditions that existed prior to activities
26 associated with contamination assessment or remedial action.

27 (3) SITE PRIORITY RANKING AND CLEANUP CRITERIA.--

28 (a) The department shall determine the priority ranking
29 of all known contaminated sites on state-owned lands using the
30 criteria listed in s. 376.3078(7) and (8), except for s.
31 376.3078(7)(e). In applying s. 376.3078(8)(h), the department

1 shall consider all pollutants and hazardous substances. It is
2 the intent of the Legislature that site rehabilitation be
3 conducted first at those sites that pose the greatest threat
4 to human health and the environment, within the availability
5 of funds appropriated annually for this program. However,
6 nothing in this subsection shall be construed to restrict the
7 department from modifying the priority status of a
8 rehabilitation site where conditions warrant, taking into
9 consideration the actual distance between the contamination
10 site and groundwater or surface water receptors or other
11 factors that affect the risk of exposure to pollutants and
12 hazardous substances.

13 (b) The department shall conduct site rehabilitation
14 at contaminated sites being cleaned up under this program
15 using the cleanup criteria established in s. 376.30701 and
16 chapter 62-777, Florida Administrative Code, as that chapter
17 may hereafter be amended.

18 (c) It is recognized that restoration of groundwater
19 resources contaminated with pollutants or hazardous substances
20 may not be achievable using currently available technology. In
21 situations where the use of available technology is not
22 expected to achieve water quality standards, the department
23 may use innovative technology that has been field-tested and
24 that has engineering and cost data available.

25 (d) This subsection may not be construed to restrict
26 the department from temporarily postponing completion of any
27 site rehabilitation activities at a contaminated site on
28 state-owned lands for which funds are being expended under
29 this section whenever the postponement is deemed necessary in
30 order to make funds available for rehabilitation of another
31

1 contamination site on state-owned lands having a higher
2 priority status.

3 (e) Regardless of a site's priority ranking, the
4 department is authorized to temporarily postpone site
5 rehabilitation at a contaminated site on state-owned lands for
6 which federal funding may be available pursuant to the
7 Formerly Used Defense Sites Program. The department, at its
8 discretion, may proceed with state-funded cleanup of such
9 sites if the likelihood of timely federal response is low.

10 (4) LIMITED LIABILITY PROTECTION.--

11 (a) The department shall not compel any state agency
12 that controls or manages state-owned lands that are
13 contaminated with pollutants or hazardous substances to
14 conduct site rehabilitation at a contaminated site that has
15 been reported to the department pursuant to paragraph (2)(a).
16 Further, notwithstanding subsection (5), the department shall
17 not pursue cost recovery from any such state agency for site
18 rehabilitation costs incurred to cleanup state-owned lands
19 that are contaminated with pollutants or hazardous substances.

20 (b) Except as provided in paragraph (a), this section
21 shall not affect the department's ability or authority to
22 pursue enforcement against any person who may have liability
23 for site rehabilitation with respect to a contaminated site on
24 state-owned lands.

25 (c) This section shall not affect the ability or
26 authority to seek contribution from any person who may have
27 liability with respect to a contaminated site on state-owned
28 lands.

29 (d) Nothing in this section shall subject the
30 department to liability for any action that may be required of
31 the property owner or the owner or operator of a facility on

1 state-owned lands by any private party or any local, state, or
2 Federal Government entity.

3 (5) DEPARTMENTAL DUTY TO SEEK RECOVERY AND
4 REIMBURSEMENT.--Except as provided in subsection (4) and as
5 otherwise provided by law, the department may recover from any
6 person causing or having caused the discharge of pollutants or
7 hazardous substances on state-owned lands all sums owed or
8 expended for site rehabilitation at a site designated under
9 the State-Owned-Lands Cleanup Program. For the purposes of s.
10 95.11, the limitation period within which to institute an
11 action to recover such sums shall commence on the last date on
12 which any such sums were expended and not the date on which
13 the discharge occurred.

14 Section 21. Paragraph (i) of subsection (4) of section
15 376.3078, Florida Statutes, is amended and paragraph (e) is
16 added to subsection (9) of that section to read:

17 376.3078 Drycleaning facility restoration; funds;
18 uses; liability; recovery of expenditures.--

19 (4) REHABILITATION CRITERIA.--It is the intent of the
20 Legislature to protect the health of all people under actual
21 circumstances of exposure. By July 1, 1999, the secretary of
22 the department shall establish criteria by rule for the
23 purpose of determining, on a site-specific basis, the
24 rehabilitation program tasks that comprise a site
25 rehabilitation program, including a voluntary site
26 rehabilitation program, and the level at which a
27 rehabilitation program task and a site rehabilitation program
28 may be deemed completed. In establishing the rule, the
29 department shall incorporate, to the maximum extent feasible,
30 risk-based corrective action principles to achieve protection
31 of human health and safety and the environment in a

1 cost-effective manner as provided in this subsection. The
2 rule shall also include protocols for the use of natural
3 attenuation and the issuance of "no further action" letters.
4 The criteria for determining what constitutes a rehabilitation
5 program task or completion of a site rehabilitation program
6 task or site rehabilitation program, including a voluntary
7 site rehabilitation program, must:

8 (i) Establish appropriate cleanup target levels for
9 soils.

10 1. In establishing soil cleanup target levels for
11 human exposure to each contaminant found in soils from the
12 land surface to 2 feet below land surface, the department
13 shall consider the following, as appropriate: calculations
14 using a lifetime cancer risk level of 1.0E-6; a hazard index
15 of 1 or less; the best achievable detection limit; or the
16 naturally occurring background concentration. Institutional
17 controls or other methods shall be used to prevent human
18 exposure to contaminated soils more than 2 feet below the land
19 surface. Any removal of such institutional controls shall
20 require such contaminated soils to be remediated.

21 2. Leachability-based soil target levels shall be
22 based on protection of the groundwater cleanup target levels
23 or the alternate cleanup target levels for groundwater
24 established pursuant to this paragraph, as appropriate. Source
25 removal and other cost-effective alternatives that are
26 technologically feasible shall be considered in achieving the
27 leachability soil target levels established by the department.
28 The leachability goals shall not be applicable if the
29 department determines, based upon individual site
30 characteristics, that contaminants will not leach into the
31

1 groundwater at levels which pose a threat to human health,
2 public safety, and the environment.

3 3. The department may set alternative cleanup target
4 levels based upon the person responsible for site
5 rehabilitation demonstrating, using

6
7 The department shall require source removal, if warranted and
8 cost-effective. Once source removal at a site is complete,
9 the department shall reevaluate the site to determine the
10 degree of active cleanup needed to continue. Further, the
11 department shall determine if the reevaluated site qualifies
12 for monitoring only or if no further action is required to
13 rehabilitate the site. If additional site rehabilitation is
14 necessary to reach "no further action" status, the department
15 is encouraged to utilize natural attenuation and monitoring
16 where site conditions warrant.

17 (9) REQUIREMENT FOR DRYCLEANING FACILITIES.--It is the
18 intent of the Legislature that the following drycleaning
19 solvent containment shall be required of the owners or
20 operators of drycleaning facilities, as follows:

21 (e) A drycleaning facility that commenced operating
22 before January 1, 1996, and applied to the program by December
23 30, 1997, is considered to have had secondary containment
24 timely installed for the purpose of determining eligibility
25 for state-funded site rehabilitation under this section if the
26 drycleaning facility meets the following criteria:

27 1. Reported in the completed application that the
28 facility was not in compliance with paragraph (a) of this
29 subsection, and entered into a consent order with the
30 department to install secondary containment and installed the
31 required containment by April 15, 1999; or

1 2. Reported in the completed application that the
2 facility had installed secondary containment but stated in the
3 application that the date the facility installed secondary
4 containment was not known, and was requested by the department
5 subsequent to April 30, 1997, to apply for program eligibility
6 and did so apply within 90 days of the request, and installed
7 secondary containment by February 28, 1998.

8
9 The department shall reconsider the applications of facilities
10 that meet the criteria set forth in this paragraph and that
11 were previously determined to be ineligible due to failure to
12 comply with secondary containment requirements. The facilities
13 must meet all other eligibility requirements.

14 Section 22. Section 376.30781, Florida Statutes, is
15 amended to read:

16 376.30781 Partial tax credits for rehabilitation of
17 ~~drycleaning-solvent-contaminated sites and brownfield sites in~~
18 ~~designated brownfield areas~~; application process; rulemaking
19 authority; revocation authority.--

20 (1) The Legislature finds that:

21 (a) To facilitate property transactions and economic
22 growth and development, it is in the interest of the state to
23 encourage the voluntary cleanup, at the earliest possible
24 time, of contaminated ~~drycleaning-solvent-contaminated sites~~
25 ~~and brownfield sites in designated brownfield areas.~~

26 (b) It is the intent of the Legislature to encourage
27 the voluntary cleanup of contaminated
28 ~~drycleaning-solvent-contaminated sites and brownfield sites in~~
29 ~~designated brownfield areas~~ by providing a partial tax credit
30 for the restoration of such property in specified
31 circumstances.

1 (2)(a) A credit in the amount of 35 percent of the
2 costs of voluntary cleanup activity that is integral to site
3 rehabilitation at the following sites is allowed pursuant to
4 ss. 199.1055 and 220.1845:

5 1. A drycleaning-solvent-contaminated site eligible
6 for state-funded site rehabilitation under s. 376.3078(3);

7 2. A drycleaning-solvent-contaminated site at which
8 cleanup is undertaken by the real property owner pursuant to
9 s. 376.3078(11), if the real property owner is not also, and
10 has never been, the owner or operator of the drycleaning
11 facility where the contamination exists; ~~or~~

12 3. A brownfield site in a designated brownfield area
13 under s. 376.80; ~~or~~

14 4. Any other contaminated site at which cleanup is
15 undertaken by a person pursuant to a voluntary cleanup
16 agreement approved by the Department of Environmental
17 Protection, if the person did not cause or contribute to the
18 contamination at the site.

19 (b) For all applications received by the Department of
20 Environmental Protection by January 15, if, as of the
21 following March 1, the credits granted under paragraph (a) do
22 not exhaust the annual maximum allowable credits under
23 subsection (3), any remaining credits may be granted for
24 petroleum-contaminated sites at which site rehabilitation is
25 being conducted pursuant to the preapproved advanced cleanup
26 program authorized in s. 376.30713, but tax credits may be
27 granted only for 35 percent of the amount of the cost-share
28 percentage of site rehabilitation costs paid for with private
29 funding. Tax credit applications submitted for preapproved
30 advanced cleanup sites shall not be included in the
31 carry-forward provision of subsection (9), which otherwise

1 allows applications that do not receive credits due to an
2 exhaustion of the annual tax credit authorization to be
3 carried forward in the same order for the next year's annual
4 tax credit allocation, if any, based on the prior year
5 application.

6 (c)~~(b)~~ A taxpayer, or multiple taxpayers working
7 jointly to clean up a single site, may not receive more than
8 \$250,000 per year in tax credits for each site voluntarily
9 rehabilitated. Multiple taxpayers shall receive tax credits in
10 the same proportion as their contribution to payment of
11 cleanup costs. Tax credits are available only for site
12 rehabilitation conducted during the calendar ~~tax~~ year for ~~in~~
13 which the tax credit application is submitted.

14 (d)~~(e)~~ In order to encourage completion of site
15 rehabilitation at contaminated sites that are being
16 voluntarily cleaned up and that are eligible for a tax credit
17 under this section, the tax credit applicant may claim an
18 additional 10 percent of the total cleanup costs, not to
19 exceed \$50,000, in the final year of cleanup as evidenced by
20 the Department of Environmental Protection issuing a "no
21 further action" order for that site.

22 (3) The Department of Environmental Protection shall
23 be responsible for allocating the tax credits provided for in
24 ss. 199.1055 and 220.1845, not to exceed a total of \$2 million
25 in tax credits annually.

26 (4) To claim the credit for site rehabilitation
27 conducted during the current calendar year, each applicant
28 must apply to the Department of Environmental Protection for
29 an allocation of the \$2 million annual credit by January 15 of
30 the following year ~~December 31~~ on a form developed by the
31 Department of Environmental Protection in cooperation with the

1 Department of Revenue. The form shall include an affidavit
2 from each applicant certifying that all information contained
3 in the application, including all records of costs incurred
4 and claimed in the tax credit application, are true and
5 correct. If the application is submitted pursuant to
6 subparagraph (2)(a)2., the form must include an affidavit
7 signed by the real property owner stating that it is not, and
8 has never been, the owner or operator of the drycleaning
9 facility where the contamination exists. If the application is
10 submitted under subparagraph (2)(a)4., the form must include
11 an affidavit signed by the person agreeing to conduct
12 voluntary cleanup stating that he or she did not cause or
13 contribute to the contamination at the site.Approval of
14 partial tax credits must be accomplished on a first-come,
15 first-served basis based upon the date complete applications
16 are received by the Division of Waste Management. An applicant
17 shall submit only one complete application per site for each
18 calendar year's site rehabilitation costs. Placeholder
19 applications may not be accepted and will not secure a place
20 in the first-come, first-served application line per year. To
21 be eligible for a tax credit the applicant must:
22 (a) Have entered into a voluntary cleanup agreement
23 with the Department of Environmental Protection for a
24 contaminated ~~drycleaning-solvent-contaminated~~ site or into a
25 Brownfield Site Rehabilitation Agreement, as applicable; and
26 (b) Have paid all deductibles pursuant to s.
27 376.3078(3)(d) for eligible drycleaning-solvent-cleanup
28 program sites.
29 (5) To obtain the tax credit certificate, an applicant
30 must annually file an application for certification, which
31 must be received by the Department of Environmental

1 Protection's Division of Waste Management ~~Protection~~ by
2 January 15 of the year following the calendar year for which
3 site rehabilitation costs are being claimed in a tax credit
4 application ~~December 31~~. The applicant must provide all
5 pertinent information requested on the tax credit application
6 form, including, at a minimum, the name and address of the
7 applicant and the address and tracking identification number
8 of the eligible site. Along with the application form, the
9 applicant must submit the following:

10 (a) A nonrefundable review fee of \$250 made payable to
11 the Water Quality Assurance Trust Fund to cover the
12 administrative costs associated with the department's review
13 of the tax credit application;

14 (b) Copies of contracts and documentation of contract
15 negotiations, accounts, invoices, sales tickets, or other
16 payment records from purchases, sales, leases, or other
17 transactions involving actual costs incurred for that tax year
18 related to site rehabilitation, as that term is defined in ss.
19 376.301 and 376.79;

20 (c) Proof that the documentation submitted pursuant to
21 paragraph (b) has been reviewed and verified by an independent
22 certified public accountant in accordance with standards
23 established by the American Institute of Certified Public
24 Accountants. Specifically, the certified public accountant
25 must attest to the accuracy and validity of the costs incurred
26 and paid by conducting an independent review of the data
27 presented by the applicant. Accuracy and validity of costs
28 incurred and paid would be determined once the level of effort
29 was certified by an appropriate professional registered in
30 this state in each contributing technical discipline. The
31 certified public accountant's report would also attest that

1 the costs included in the application form are not duplicated
2 within the application. A copy of the accountant's report
3 shall be submitted to the Department of Environmental
4 Protection with the tax credit application; and

5 (d) A certification form stating that site
6 rehabilitation activities associated with the documentation
7 submitted pursuant to paragraph (b) have been conducted under
8 the observation of, and related technical documents have been
9 signed and sealed by, an appropriate professional registered
10 in this state in each contributing technical discipline. The
11 certification form shall be signed and sealed by the
12 appropriate registered professionals stating that the costs
13 incurred were integral, necessary, and required for site
14 rehabilitation, as that term is defined in ss. 376.301 and
15 376.79.

16 (6) The certified public accountant and appropriate
17 registered professionals submitting forms as part of a tax
18 credit application must verify such forms. Verification must
19 be accomplished as provided in s. 92.525(1)(b) and subject to
20 the provisions of s. 92.525(3).

21 (7) The Department of Environmental Protection shall
22 review the tax credit application and any supplemental
23 documentation that the applicant may submit before the annual
24 application deadline in order to have the application
25 considered complete ~~submitted by each applicant~~, for the
26 purpose of verifying that the applicant has met the qualifying
27 criteria in subsections (2) and (4) and has submitted all
28 required documentation listed in subsection (5). Upon
29 verification that the applicant has met these requirements,
30 the department shall issue a written decision granting
31 eligibility for partial tax credits (a tax credit certificate)

1 in the amount of 35 percent of the total costs claimed,
2 subject to the \$250,000 limitation, for the calendar tax year
3 for in which the tax credit application is submitted based on
4 the report of the certified public accountant and the
5 certifications from the appropriate registered technical
6 professionals.

7 (8) On or before March 1, the Department of
8 Environmental Protection shall inform each eligible applicant
9 for sites listed in paragraph (2)(a) of the amount of its
10 partial tax credit and provide each eligible applicant with a
11 tax credit certificate that must be submitted with its tax
12 return to the Department of Revenue to claim the tax credit.
13 Credits will not result in the payment of refunds if total
14 credits exceed the amount of tax owed.

15 (9) Except for applicants for sites listed in
16 paragraph (2)(b), if an applicant does not receive a tax
17 credit allocation due to an exhaustion of the \$2 million
18 annual tax credit authorization, such application will then be
19 included in the same first-come, first-served order in the
20 next year's annual tax credit allocation, if any, based on the
21 prior year application.

22 (10) The Department of Environmental Protection may
23 adopt rules to prescribe the necessary forms required to claim
24 tax credits under this section and to provide the
25 administrative guidelines and procedures required to
26 administer this section. ~~Prior to the adoption of rules~~
27 ~~regulating the tax credit application, the department shall,~~
28 ~~by September 1, 1998, establish reasonable interim application~~
29 ~~requirements and forms.~~

30 (11) The Department of Environmental Protection may
31 revoke or modify any written decision granting eligibility for

1 partial tax credits under this section if it is discovered
2 that the tax credit applicant submitted any false statement,
3 representation, or certification in any application, record,
4 report, plan, or other document filed in an attempt to receive
5 partial tax credits under this section. The Department of
6 Environmental Protection shall immediately notify the
7 Department of Revenue of any revoked or modified orders
8 affecting previously granted partial tax credits.
9 Additionally, the taxpayer must notify the Department of
10 Revenue of any change in its tax credit claimed.

11 (12) An owner, operator, or real property owner who
12 receives state-funded site rehabilitation under s. 376.3078(3)
13 for rehabilitation of a drycleaning-solvent-contaminated site
14 is ineligible to receive a tax credit under s. 199.1055 or s.
15 220.1845 for costs incurred by the taxpayer in conjunction
16 with the rehabilitation of that site during the same time
17 period that state-administered site rehabilitation was
18 underway.

19 (13) Any person who receives partial state-funded site
20 rehabilitation under the preapproved advanced cleanup program
21 authorized in s. 376.30713(4) is ineligible to receive tax
22 credits under s. 199.1055 or s. 220.1845 for the portion of
23 site rehabilitation costs paid for by the state.

24 (14) Regardless of the effective date of this statute,
25 the Legislature intends to allow tax credit applications filed
26 under paragraphs (2)(a)4. and (2)(b) to include site
27 rehabilitation costs for the entire 2000 calendar year rather
28 than only those costs incurred and paid from July 1, 2000,
29 forward.

30 Section 23. Section 376.79, Florida Statutes, is
31 amended to read:

1 376.79 Definitions.--As used in ss. 376.77-376.85, the
2 term:

3 (1) "Additive effects" means a scientific principle
4 that the toxicity that occurs as a result of exposure is the
5 sum of the toxicities of the individual chemicals to which the
6 individual is exposed.

7 (2) "Antagonistic effects" means a scientific
8 principle that the toxicity that occurs as a result of
9 exposure is less than the sum of the toxicities of the
10 individual chemicals to which the individual is exposed.

11 (3) "Brownfield sites" means sites that are generally
12 abandoned, idled, or underused industrial and commercial
13 properties where expansion or redevelopment is complicated by
14 actual or perceived environmental contamination.

15 (4) "Brownfield area" means a contiguous area of one
16 or more brownfield sites, some of which may not be
17 contaminated, and which has been designated by a local
18 government by resolution. Such areas may include all or
19 portions of community redevelopment areas, enterprise zones,
20 empowerment zones, other such designated economically deprived
21 communities and areas, and Environmental Protection
22 Agency-designated brownfield pilot projects.

23 (5) "Contaminant" means any physical, chemical,
24 biological, or radiological substance present in any medium
25 which may result in adverse effects to human health or the
26 environment or which creates an adverse nuisance,
27 organoleptic, or aesthetic condition in groundwater.

28 ~~(6)~~(5) "Contaminated site" means any contiguous land,
29 surface water, or groundwater areas that contain contaminants
30 that may be harmful to human health or the environment.

31

1 ~~(7)(6)~~ "Department" means the Department of
2 Environmental Protection.

3 ~~(8)(7)~~ "Engineering controls" means modifications to a
4 site to reduce or eliminate the potential for exposure to
5 contaminants. Such modifications may include, but are not
6 limited to, physical or hydraulic control measures, capping,
7 point of use treatments, or slurry walls.

8 ~~(9)(8)~~ "Environmental justice" means the fair
9 treatment of all people of all races, cultures, and incomes
10 with respect to the development, implementation, and
11 enforcement of environmental laws, regulations, and policies.

12 ~~(10)(9)~~ "Institutional controls" means the restriction
13 on use of or access to a site to eliminate or minimize
14 exposure to contaminants. Such restrictions may include, but
15 are not limited to, deed restrictions, restrictive covenants,
16 or conservation easements ~~use restrictions, or restrictive~~
17 ~~zoning.~~

18 ~~(11)(10)~~ "Local pollution control program" means a
19 local pollution control program that has received delegated
20 authority from the Department of Environmental Protection
21 under ss. 376.80(11) and 403.182.

22 ~~(12)(11)~~ "Natural attenuation" means a verifiable
23 approach to site rehabilitation which allows natural processes
24 to contain the spread of contamination and reduce the
25 concentrations of contaminants in contaminated groundwater and
26 soil. Natural attenuation processes may include sorption,
27 biodegradation, chemical reactions with subsurface materials,
28 diffusion, dispersion, and volatilization. ~~the verifiable~~
29 ~~reduction of contaminants through natural processes, which may~~
30 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

31

1 ~~(13)~~~~(12)~~ "Person responsible for brownfield site
2 rehabilitation" means the individual or entity that is
3 designated by the local government to enter into the
4 brownfield site rehabilitation agreement with the department
5 or an approved local pollution control program and enters into
6 an agreement with the local government for redevelopment of
7 the site.

8 ~~(14)~~~~(13)~~ "Person" means any individual, partner, joint
9 venture, or corporation; any group of the foregoing, organized
10 or united for a business purpose; or any governmental entity.

11 (15) "Risk reduction" means the lowering or
12 elimination of the level of risk posed to human health or the
13 environment through interim remedial actions, remedial action,
14 or institutional, and if appropriate, engineering controls.

15 ~~(16)~~~~(14)~~ "Secretary" means the secretary of the
16 Department of Environmental Protection.

17 ~~(17)~~~~(15)~~ "Site rehabilitation" means the assessment of
18 site contamination and the remediation activities that reduce
19 the levels of contaminants at a site through accepted
20 treatment methods to meet the cleanup target levels
21 established for that site.

22 ~~(18)~~~~(16)~~ "Source removal" means the removal of free
23 product, or the removal of contaminants from soil or sediment
24 that has been contaminated to the extent that leaching to
25 groundwater or surface water has occurred or is occurring.

26 ~~(19)~~~~(17)~~ "Synergistic effects" means a scientific
27 principle that the toxicity that occurs as a result of
28 exposure is more than the sum of the toxicities of the
29 individual chemicals to which the individual is exposed.

30
31

1 Section 24. Subsections (4) and (5) and paragraph (c)
2 of subsection (7) of section 376.80, Florida Statutes, are
3 amended to read:

4 376.80 Brownfield program administration process.--

5 (4) Local governments or persons responsible for
6 rehabilitation and redevelopment of brownfield areas must
7 establish an advisory committee or use an existing advisory
8 committee that has formally expressed its intent to address
9 redevelopment of the specific brownfield area for the purpose
10 of improving public participation and receiving public
11 comments on rehabilitation and redevelopment of the brownfield
12 area, future land use, local employment opportunities,
13 community safety, and environmental justice. Such advisory
14 committee should include residents within or adjacent to the
15 brownfield area, businesses operating within the brownfield
16 area, and others deemed appropriate. The person responsible
17 for brownfield site rehabilitation must notify the advisory
18 committee of the intent to rehabilitate and redevelop the site
19 before executing the brownfield site rehabilitation agreement,
20 and provide the committee with a copy of the draft plan for
21 site rehabilitation which addresses elements required by
22 subsection (5). This includes disclosing potential reuse of
23 the property as well as site rehabilitation activities, if
24 any, to be performed. The advisory committee shall review the
25 proposed redevelopment agreement required pursuant to
26 paragraph (5)(i) and provide comments, if appropriate, to the
27 board of the local government with jurisdiction over the
28 brownfield area. The advisory committee must receive a copy of
29 the executed brownfield site rehabilitation agreement. When
30 the person responsible for brownfield site rehabilitation
31 submits a site assessment report or the technical document

1 containing the proposed course of action following site
2 assessment to the department or the local pollution control
3 program for review, the person responsible for brownfield site
4 rehabilitation must hold a meeting or attend a regularly
5 scheduled meeting to inform the advisory committee of the
6 findings and recommendations in the site assessment report or
7 the technical document containing the proposed course of
8 action following site assessment. ~~The advisory committee must~~
9 ~~review and provide recommendations to the board of the local~~
10 ~~government with jurisdiction on the proposed site~~
11 ~~rehabilitation agreement provided in subsection (5).~~

12 (5) The person responsible for brownfield site
13 rehabilitation must enter into a brownfield site
14 rehabilitation agreement with the department or an approved
15 local pollution control program if actual contamination exists
16 at the brownfield site. The brownfield site rehabilitation
17 agreement must include:

18 (a) A brownfield site rehabilitation schedule,
19 including milestones for completion of site rehabilitation
20 tasks and submittal of technical reports and rehabilitation
21 plans as agreed upon by the parties to the agreement;

22 (b) A commitment to conduct site rehabilitation
23 activities under the observation of professional engineers or
24 geologists who are registered in accordance with the
25 requirements of chapter 471 or chapter 492, respectively.
26 Submittals provided by the person responsible for brownfield
27 site rehabilitation must be signed and sealed by a
28 professional engineer registered under chapter 471, or a
29 professional geologist registered under chapter 492,
30 certifying that the submittal and associated work comply with
31 the law and rules of the department and those governing the

1 profession. In addition, upon completion of the approved
2 remedial action, the department shall require a professional
3 engineer registered under chapter 471 or a professional
4 geologist registered under chapter 492 to certify that the
5 corrective action was, to the best of his or her knowledge,
6 completed in substantial conformance with the plans and
7 specifications approved by the department;

8 (c) A commitment to conduct site rehabilitation in
9 accordance with an approved comprehensive quality assurance
10 plan under department rules;

11 (d) A commitment to conduct site rehabilitation
12 consistent with state, federal, and local laws and consistent
13 with the brownfield site contamination cleanup criteria in s.
14 376.81, including any applicable requirements for risk-based
15 corrective action;

16 (e) Timeframes for the department's review of
17 technical reports and plans submitted in accordance with the
18 agreement. The department shall make every effort to adhere
19 to established agency goals for reasonable timeframes for
20 review of such documents;

21 (f) A commitment to secure site access for the
22 department or approved local pollution control program to all
23 brownfield sites within the eligible brownfield area for
24 activities associated with site rehabilitation;

25 (g) Other provisions that the person responsible for
26 brownfield site rehabilitation and the department agree upon,
27 that are consistent with ss. 376.77-376.85, and that will
28 improve or enhance the brownfield site rehabilitation process;

29 (h) A commitment to consider appropriate pollution
30 prevention measures and to implement those that the person
31 responsible for brownfield site rehabilitation determines are

1 reasonable and cost-effective, taking into account the
2 ultimate use or uses of the brownfield site. Such measures
3 may include improved inventory or production controls and
4 procedures for preventing loss, spills, and leaks of hazardous
5 waste and materials, and include goals for the reduction of
6 releases of toxic materials; and

7 (i) Certification that an agreement exists between the
8 person responsible for brownfield site rehabilitation and the
9 local government with jurisdiction over the brownfield area.
10 Such agreement shall contain terms for the redevelopment of
11 the brownfield area.

12 (7) The contractor must certify to the department that
13 the contractor:

14 (c) Maintains comprehensive general liability and
15 comprehensive automobile liability insurance with minimum
16 limits of at least \$1 million per claim ~~occurrence~~ and \$1
17 million annual aggregate, sufficient to protect it from claims
18 for damage for personal injury, including accidental death, as
19 well as claims for property damage which may arise from
20 performance of work under the program, designating the state
21 as an additional insured party.

22 Section 25. Section 376.81, Florida Statutes, is
23 amended to read:

24 376.81 Brownfield site and brownfield areas
25 contamination cleanup criteria.--

26 (1) It is the intent of the Legislature to protect the
27 health of all people under actual circumstances of exposure.
28 By July 1, 2001 ~~1998~~, the secretary of the department shall
29 establish criteria by rule for the purpose of determining, on
30 a site-specific basis, the rehabilitation program tasks that
31 comprise a site rehabilitation program and the level at which

1 a rehabilitation program task and a site rehabilitation
2 program may be deemed completed. In establishing the rule,
3 the department shall apply ~~incorporate~~, to the maximum extent
4 feasible, a risk-based corrective action process principles to
5 achieve protection of human health and safety and the
6 environment in a cost-effective manner based on the principles
7 set forth as provided in this subsection. The rule must
8 prescribe a phased risk-based corrective action process that
9 is iterative and that tailors site rehabilitation tasks to
10 site-specific conditions and risks. The department and the
11 person responsible for brownfield site rehabilitation are
12 encouraged to establish decision points at which risk
13 management decisions will be made. The department shall
14 provide an early decision, when requested, regarding
15 applicable exposure factors and a risk management approach
16 based on the current and future land use at the site.The rule
17 shall also include protocols for the use of natural
18 attenuation, the use of institutional and engineering
19 controls,and the issuance of "no further action" letters. The
20 criteria for determining what constitutes a rehabilitation
21 program task or completion of a site rehabilitation program
22 task or site rehabilitation program must:

23 (a) Consider the current exposure and potential risk
24 of exposure to humans and the environment, including multiple
25 pathways of exposure. The physical, chemical, and biological
26 characteristics of each contaminant must be considered in
27 order to determine the feasibility of risk-based corrective
28 action assessment.

29 (b) Establish the point of compliance at the source of
30 the contamination. However, the department is authorized to
31 temporarily move the point of compliance to the boundary of

1 the property, or to the edge of the plume when the plume is
2 within the property boundary, while cleanup, including cleanup
3 through natural attenuation processes in conjunction with
4 appropriate monitoring, is proceeding. The department also is
5 authorized, pursuant to criteria provided for in this section,
6 to temporarily extend the point of compliance beyond the
7 property boundary with appropriate monitoring, if such
8 extension is needed to facilitate natural attenuation or to
9 address the current conditions of the plume, provided human
10 health, public safety, and the environment are protected.
11 When temporarily extending the point of compliance beyond the
12 property boundary, it cannot be extended further than the
13 lateral extent of the plume at the time of execution of the
14 brownfield site rehabilitation agreement, if known, or the
15 lateral extent of the plume as defined at the time of site
16 assessment. Temporary extension of the point of compliance
17 beyond the property boundary, as provided in this paragraph,
18 must include actual notice by the person responsible for
19 brownfield site rehabilitation to local governments and the
20 owners of any property into which the point of compliance is
21 allowed to extend and constructive notice to residents and
22 business tenants of the property into which the point of
23 compliance is allowed to extend. Persons receiving notice
24 pursuant to this paragraph shall have the opportunity to
25 comment within 30 days of receipt of the notice.

26 (c) Ensure that the site-specific cleanup goal is that
27 all contaminated brownfield sites and brownfield areas
28 ultimately achieve the applicable cleanup target levels
29 provided in this section. In the circumstances provided below,
30 and after constructive notice and opportunity to comment
31 within 30 days from receipt of the notice to local government,

1 to owners of any property into which the point of compliance
2 is allowed to extend, and to residents on any property into
3 which the point of compliance is allowed to extend, the
4 department may allow concentrations of contaminants to
5 temporarily exceed the applicable cleanup target levels while
6 cleanup, including cleanup through natural attenuation
7 processes in conjunction with appropriate monitoring, is
8 proceeding, if human health, public safety, and the
9 environment are protected.

10 (d) Allow brownfield site and brownfield area
11 rehabilitation programs to include the use of institutional or
12 engineering controls, where appropriate, to eliminate or
13 control the potential exposure to contaminants of humans or
14 the environment. The use of controls must be preapproved by
15 the department and only after constructive notice and
16 opportunity to comment within 30 days from receipt of notice
17 is provided to local governments, to owners of any property
18 into which the point of compliance is allowed to extend, and
19 to residents on any property into which the point of
20 compliance is allowed to extend. When institutional or
21 engineering controls are implemented to control exposure, the
22 removal of the controls must have prior department approval
23 and must be accompanied by the resumption of active cleanup,
24 or other approved controls, unless cleanup target levels under
25 this section have been achieved.

26 (e) Consider the additive effects of contaminants.
27 The synergistic and antagonistic effects shall also be
28 considered when the scientific data become available.

29 (f) Take into consideration individual site
30 characteristics, which shall include, but not be limited to,
31 the current and projected use of the affected groundwater and

1 surface water in the vicinity of the site, current and
2 projected land uses of the area affected by the contamination,
3 the exposed population, the degree and extent of
4 contamination, the rate of contaminant migration, the apparent
5 or potential rate of contaminant degradation through natural
6 attenuation processes, the location of the plume, and the
7 potential for further migration in relation to site property
8 boundaries.

9 (g) Apply state water quality standards as follows:

10 1. Cleanup target levels for each contaminant found in
11 groundwater shall be the applicable state water quality
12 standards. Where such standards do not exist, the cleanup
13 target levels for groundwater shall be based on the minimum
14 criteria specified in department rule. The department shall
15 apply ~~consider~~ the following, as appropriate, in establishing
16 the applicable cleanup target levels ~~minimum criteria~~:
17 calculations using a lifetime cancer risk level of 1.0E-6; a
18 hazard index of 1 or less; the best achievable detection
19 limit; and ~~the naturally occurring background concentration;~~
20 ~~or~~ nuisance, organoleptic, and aesthetic considerations.
21 However, the department shall not require site rehabilitation
22 to achieve a cleanup target level for any individual
23 contaminant which is more stringent than the site-specific,
24 naturally occurring background concentration for that
25 contaminant.

26 2. Where surface waters are exposed to contaminated
27 groundwater, the cleanup target levels for the contaminants
28 shall be based on the more protective of the groundwater or
29 surface water standards as established by department rule.
30 The point of measuring compliance with the surface water
31

1 standards shall be in the groundwater immediately adjacent to
2 the surface water body.

3 3. The department shall approve ~~may set~~ alternative
4 cleanup target levels in conjunction with institutional and
5 engineering controls, if needed, based upon an applicant's
6 demonstration, using site-specific data, modeling results, and
7 risk assessment studies, risk reduction techniques, or a
8 combination thereof, that human health, public safety, and the
9 environment are protected to the same degree as provided in
10 subparagraphs 1. and 2. Where a state water quality standard
11 is applicable, a deviation may not result in the application
12 of cleanup target levels more stringent than the standard. In
13 determining whether it is appropriate to establish alternative
14 cleanup target levels at a site, the department must consider
15 the effectiveness of source removal, if any, which ~~that~~ has
16 been completed at the site and the practical likelihood of the
17 use of low yield or poor quality groundwater, the use of
18 groundwater near marine surface water bodies, the current and
19 projected use of the affected groundwater in the vicinity of
20 the site, or the use of groundwater in the immediate vicinity
21 of the contaminated area, where it has been demonstrated that
22 the groundwater contamination is not migrating away from such
23 localized source, provided human health, public safety, and
24 the environment are protected. When using alternative cleanup
25 target levels at a brownfield site, institutional controls
26 shall not be required if:

27 a. The only cleanup target levels exceeded are the
28 groundwater cleanup target levels derived from nuisance,
29 organoleptic, or aesthetic considerations;

1 b. Concentrations of all contaminants meet the state
2 water quality standards or minimum criteria, based on
3 protection of human health, provided in subparagraph 1.;

4 c. All of the groundwater cleanup target levels
5 established pursuant to subparagraph 1. are met at the
6 property boundary;

7 d. The person responsible for brownfield site
8 rehabilitation has demonstrated that the contaminants will not
9 migrate beyond the property boundary at concentrations
10 exceeding the groundwater cleanup target levels established
11 pursuant to subparagraph 1.;

12 e. The property has access to and is using an offsite
13 water supply and no unplugged private wells are used for
14 domestic purposes; and

15 f. The real property owner provides written acceptance
16 of the "no further action" proposal to the department or the
17 local pollution control program.

18 (h) Provide for the department to issue a "no further
19 action order," with conditions, including, but not limited to,
20 the use of institutional or engineering controls where
21 appropriate, when alternative cleanup target levels
22 established pursuant to subparagraph (g)3. have been achieved,
23 or when the person responsible for brownfield site
24 rehabilitation can demonstrate that the cleanup target level
25 is unachievable within available technologies. Prior to
26 issuing such an order, the department shall consider the
27 feasibility of an alternative site rehabilitation technology
28 in the brownfield area.

29 (i) Establish appropriate cleanup target levels for
30 soils.

31

1 1. In establishing soil cleanup target levels for
2 human exposure to each contaminant found in soils from the
3 land surface to 2 feet below land surface, the department
4 shall apply ~~consider~~ the following, as appropriate:
5 calculations using a lifetime cancer risk level of 1.0E-6; a
6 hazard index of 1 or less; and the best achievable detection
7 limit; ~~or the naturally occurring background concentration.~~
8 However, the department shall not require site rehabilitation
9 to achieve a cleanup target level for an individual
10 contaminant which is more stringent than the site-specific,
11 naturally occurring background concentration for that
12 contaminant. Institutional controls or other methods shall be
13 used to prevent human exposure to contaminated soils more than
14 2 feet below the land surface. Any removal of such
15 institutional controls shall require such contaminated soils
16 to be remediated.

17 2. Leachability-based soil target levels shall be
18 based on protection of the groundwater cleanup target levels
19 or the alternate cleanup target levels for groundwater
20 established pursuant to this paragraph, as appropriate. Source
21 removal and other cost-effective alternatives that are
22 technologically feasible shall be considered in achieving the
23 leachability soil target levels established by the department.
24 The leachability goals shall not be applicable if the
25 department determines, based upon individual site
26 characteristics, and in conjunction with institutional and
27 engineering controls, if needed, that contaminants will not
28 leach into the groundwater at levels that ~~which~~ pose a threat
29 to human health, public safety, and the environment.

30 3. The department shall approve ~~may set~~ alternative
31 cleanup target levels in conjunction with institutional and

1 engineering controls, if needed,based upon an applicant's
2 demonstration, using site-specific data,modeling results,and
3 risk assessment studies, risk reduction techniques, or a
4 combination thereof,that human health, public safety, and the
5 environment are protected to the same degree as provided in
6 subparagraphs 1. and 2.

7 (2) The department shall require source removal, if
8 warranted and cost-effective. Once source removal at a site
9 is complete, the department shall reevaluate the site to
10 determine the degree of active cleanup needed to continue.
11 Further, the department shall determine if the reevaluated
12 site qualifies for monitoring only or if no further action is
13 required to rehabilitate the site. If additional site
14 rehabilitation is necessary to reach "no further action"
15 status, the department is encouraged to utilize natural
16 attenuation and monitoring where site conditions warrant.

17 (3) The cleanup criteria established pursuant to this
18 section govern only site rehabilitation activities occurring
19 at the contaminated site. Removal of contaminated media from a
20 site for offsite relocation or treatment must be in accordance
21 with all applicable federal, state, and local laws and
22 regulations.

23 Section 26. Paragraph (k) is added to subsection (2)
24 of section 376.82, Florida Statutes, to read:

25 376.82 Eligibility criteria and liability
26 protection.--

27 (2) LIABILITY PROTECTION.--

28 (k) A person whose property becomes contaminated due
29 to geophysical or hydrologic reasons, including the migration
30 of contaminants onto their property from the operation of
31 facilities and activities on a nearby designated brownfield

1 area, and whose property has never been occupied by a business
2 that utilized or stored the contaminants or similar
3 constituents is not subject to administrative or judicial
4 action brought by or on behalf of another to compel the
5 rehabilitation of or the payment of the costs for the
6 rehabilitation of sites contaminated by materials that
7 migrated onto the property from the designated brownfield
8 area, if the person:

9 1. Does not own and has never held an ownership
10 interest in, or shared in the profits of, activities in the
11 designated brownfield area operated at the source location;

12 2. Did not participate in the operation or management
13 of the activities in the designated brownfield area operated
14 at the source location; and

15 3. Did not cause, contribute to, or exacerbate the
16 release or threat of release of any hazardous substance
17 through any act or omission.

18 Section 27. Section 376.84, Florida Statutes, is
19 amended to read:

20 376.84 Brownfield redevelopment economic
21 incentives.--It is the intent of the Legislature that
22 brownfield redevelopment activities be viewed as opportunities
23 to significantly improve the utilization, general condition,
24 and appearance of these sites. Alternative ~~Different~~ standards
25 than those in place for new development, as allowed under
26 current state and local laws, should be used to the fullest
27 extent to encourage the redevelopment of a brownfield. State
28 and local governments are encouraged to offer redevelopment
29 incentives for this purpose, as an ongoing public investment
30 in infrastructure and services, to help eliminate the public
31 health and environmental hazards, and to promote the creation

1 of jobs in these areas. These ~~Such~~ incentives may include
2 financial, regulatory, and technical assistance to persons and
3 businesses involved in the redevelopment of the brownfield
4 pursuant to this act.

5 (1) Financial incentives and local incentives for
6 redevelopment may include, but not be limited to:

7 (a) Tax increment financing through community
8 redevelopment agencies, pursuant to part III of chapter 163,
9 or any other entities approved by the local government for the
10 purpose of redeveloping brownfield areas.

11 (b) Enterprise zone tax exemptions for businesses
12 pursuant to chapters 196 and 290.

13 (c) Safe neighborhood improvement districts as
14 provided in ss. 163.501-163.523.

15 (d) Waiver, reduction, or limitation by line of
16 business with respect to occupational license taxes pursuant
17 to chapter 205.

18 (e) Tax exemption for historic properties as provided
19 in s. 196.1997.

20 (f) Residential electricity exemption of up to the
21 first 500 kilowatts of use may be exempted from the municipal
22 public service tax pursuant to s. 166.231.

23 (g) Minority business enterprise programs as provided
24 in s. 287.0943.

25 (h) Electric and gas tax exemption as provided in s.
26 166.231(6).

27 (i) Economic development tax abatement as provided in
28 s. 196.1995.

29 (j) Grants, including community development block
30 grants.

31 (k) Pledging of revenues to secure bonds.

1 (1) Low-interest revolving loans and zero-interest
2 loan pools.

3 (m) Local grant programs for facade, storefront,
4 signage, and other business improvements.

5 (n) Governmental coordination of loan programs with
6 lenders, such as microloans, business reserve fund loans,
7 letter of credit enhancements, gap financing, land lease and
8 sublease loans, and private equity.

9 (o) Payment schedules over time for payment of fees,
10 within criteria, and marginal cost pricing.

11

(p) The tax rebate established for certified
12 businesses located and operated in a designated brownfield
13 area under s. 290.007(9).

14 (2) Regulatory incentives may include, but not be
15 limited to:

16 (a) Cities' absorption of developers' concurrency
17 needs.

18 (b) Developers' performance of certain analyses.

19 (c) Exemptions and lessening of state and local review
20 requirements.

21 (d) Water and sewer regulatory incentives.

22 (e) Waiver of transportation impact fees and permit
23 fees.

24 (f) Zoning incentives to reduce review requirements
25 for redevelopment changes in use and occupancy; establishment
26 of code criteria for specific uses; and institution of credits
27 for previous use within the area.

28 (g) Flexibility in parking standards and buffer zone
29 standards.

30 (h) Environmental management through specific code
31 criteria and conditions allowed by current law.

1 (i) Maintenance standards and activities by ordinance
2 and otherwise, and increased security and crime prevention
3 measures available through special assessments.

4 (j) Traffic-calming measures.

5 (k) Historic preservation ordinances, loan programs,
6 and review and permitting procedures.

7 (l) One-stop permitting and streamlined development
8 and permitting process.

9 (3) Technical assistance incentives may include, but
10 not be limited to:

11 (a) Expedited development applications.

12 (b) Formal and informal information on business
13 incentives and financial programs.

14 (c) Site design assistance.

15 (d) Marketing and promotion of projects or areas.

16 (4) A local government having a designated brownfield
17 area under s. 376.80 and a brownfield site rehabilitation
18 agreement under subsection (5) of that section may issue
19 revenue bonds under s. 163.385 and employ tax increment
20 financing under s. 163.387 for the purpose of financing the
21 implementation of the brownfield site rehabilitation agreement
22 and the local government's approved plan for revitalizing the
23 brownfield area, except that in a charter county such
24 incentive shall be employed consistent with the provisions of
25 s. 163.410.

26 (5) A local government having a designated brownfield
27 area as described in subsection (4) may also exercise the
28 powers granted under s. 163.514 for community redevelopment
29 improvement districts, including the authority to levy special
30 assessments when such mechanisms will assist in revitalizing
31 the brownfield area.

1 Section 28. Subsection (1) of section 376.86, Florida
2 Statutes, is amended to read:

3 376.86 Brownfield Areas Loan Guarantee Program.--

4 (1) The Brownfield Areas Loan Guarantee Council is
5 created to review and approve or deny by a majority vote of
6 its membership, the situations and circumstances for
7 participation in partnerships by agreements with local
8 governments, financial institutions, and others associated
9 with the redevelopment of brownfield areas pursuant to the
10 Brownfields Redevelopment Act for a limited state guaranty of
11 up to 4 5 years of loan guarantees or loan loss reserves
12 issued pursuant to law. The limited state loan guaranty
13 applies only to 20 ~~10~~ percent of the primary ~~lenders'~~ lenders
14 loans for redevelopment projects in brownfield areas. A
15 limited state guaranty of private loans or a loan loss reserve
16 is authorized for lenders licensed to operate in the state
17 upon a determination by the council that such an arrangement
18 is ~~would be~~ in the public interest and that the likelihood of
19 the success of the loan is great.

20 Section 29. Section 376.876, Florida Statutes, is
21 created to read:

22 376.876 Brownfield Redevelopment Grants Program.--

23 (1) The Department of Environmental Protection shall
24 administer a program to make grants to local governments that
25 have designated brownfield areas under s. 376.80 and need
26 financial assistance for site rehabilitation activities to
27 make the redevelopment project financially feasible. The
28 grants shall be administered pursuant to s. 216.181 and may
29 not be used for general administrative costs incurred by a
30 local government or other entities identified in subsection
31 (4) for oversight and administration of a brownfield area

1 redevelopment program, but instead the state grants must be
2 used for actual site rehabilitation activities, including
3 integrally related engineering design, groundwater
4 remediation, soil removal, and soil treatment, and customary
5 nonadministrative activities undertaken in the remediation of
6 contamination at a designated brownfield site.

7 (2) The department shall develop criteria for awards
8 of grant funds. In developing these criteria, the department
9 shall consider, but not be limited to, the following factors:

10 (a) The level of unemployment and poverty in the
11 census tract in the brownfield area and in which the project
12 site is located;

13 (b) The likelihood that the proposed response action
14 will be adequate to clean up the property in accordance with
15 the requirements of all applicable laws;

16 (c) The presence of community benefits associated with
17 the project, including, without limitation, the creation or
18 revitalization of open space;

19 (d) The proximity of the project site to existing
20 transportation and utility infrastructure appropriate to
21 support the proposed reuse of the project site;

22 (e) Whether the project site is located in an area
23 that has received pilot project funding for redevelopment of
24 brownfield areas from the U.S. Environmental Protection
25 Agency;

26 (f) Whether the local government in which the project
27 site is located has made available substantial funds in
28 furtherance of remediation and redevelopment of the designated
29 brownfield area; and

30
31

1 (g) Whether the local government having the designated
2 brownfield area has completed any projects in the brownfield
3 area.

4 (3) The grant application must include:

5 (a) A discussion of the relevance of the redevelopment
6 project to the factors listed in paragraphs (2)(a)-(g);

7 (b) A projection of budget and project needs; and

8 (c) A procedure for securing and identifying local
9 matching funds.

10 (4) While grants must be applied for by municipalities
11 or counties, the local governments may by agreement allow the
12 grant funds to be used by local redevelopment authorities,
13 economic development authorities, community redevelopment
14 agencies, or other similar entities approved by the municipal
15 or county governing body that has designated the brownfield
16 area under s. 376.80 and has jurisdiction over the location
17 where the redevelopment grant funds will be used.

18 (5) Each grant requires a 20-percent match from the
19 applicant in either cash or in-kind services. A single grant
20 may not be larger than \$300,000 during each state fiscal year.
21 Of each grant, no more than \$100,000 may be used for site
22 assessment activities. The remainder of the grant amount is to
23 be used for cleanup activities at a brownfield site. Each
24 grant awarded per brownfield site shall be for a one-time
25 occurrence and not a recurring annual award. Multiple grants
26 may be awarded to local governments for projects at multiple
27 brownfield sites within a designated brownfield area.

28 (6) In the first fiscal year in which the Legislature
29 provides an appropriation for this grant program, the
30 department shall administer the funds to assure that at least
31 one-half of the amount available is awarded to local

1 governments that can demonstrate compliance with paragraphs
2 (2)(e), (f), and (g).

3 (7) The department may adopt rules to administer the
4 grant program authorized by this section relating to
5 application forms, timeframes for submission of applications,
6 notification of grant awards, grant agreement documents
7 required, and criteria pursuant to subsection (2) for
8 determining grant awards. Before the adoption of these rules,
9 the department shall, by September 1, 2000, establish interim
10 application requirements, forms, and criteria.

11 Section 30. Section 376.88, Florida Statutes, is
12 created to read:

13 376.88 Brownfield Program Review Advisory Council.--

14 (1) The Brownfield Program Review Advisory Council is
15 created to provide for continuous review of the progress in
16 the administration of Florida's Brownfield Program and to make
17 recommendations for its improvement. The council shall consist
18 of the following:

19 (a) A representative of a city that participated in
20 the pilot grant program for brownfields sponsored by the U.S.
21 Environmental Protection Agency;

22 (b) A representative of a county that participated in
23 the pilot grant program for brownfields sponsored by the U.S.
24 Environmental Protection Agency;

25 (c) A representative of a statewide business
26 organization;

27 (d) A representative of Enterprise Florida, Inc.;

28 (e) A representative of response action contractor
29 companies involved in activities at brownfield sites;

30 (f) The Secretary of the Department of Environmental
31 Protection or his or her designee;

1 (g) The Secretary of the Department of Community
2 Affairs or his or her designee;

3 (h) The Director of the Office of Tourism, Trade, and
4 Economic Development in the Executive Office of the Governor;

5 (i) A representative of a financial institution;

6 (j) A representative of the Sierra Club; and

7 (k) A representative of the Community Environmental
8 Health Advisory Board.

9 (2) Duties and responsibilities.--The Brownfield
10 Program Review Advisory Council shall:

11 (a) Perform a comprehensive review of activities
12 related to rehabilitation of brownfield areas;

13 (b) Determine and recommend any additional economic
14 incentives that should be available to help accelerate
15 rehabilitation activities; and

16 (c) Review the administrative processes for approving
17 and permitting rehabilitation activities by the Department of
18 Environmental Protection and local programs and make
19 recommendations for improvements in these processes.

20 (3) The initial term for service of the council shall
21 be 2 years from the date of the first meeting and may be
22 extended at the discretion of the Secretary of Environmental
23 Protection, or his or her designee, based upon the needs of
24 the brownfields program.

25 (4) Each member shall provide his or her own per diem
26 and expenses for travel while carrying out the business of the
27 council.

28 (5) The Secretary of the Department of Environmental
29 Protection or his or her designee shall appoint the council
30 members, serve as chairperson of the council, and convene the
31 council on at least a semi-annual basis.

1 (6) The council shall submit a report to the
2 Legislature as often as needed to address issues requiring
3 legislative changes or appropriations.

4 Section 31. Paragraph (d) is added to subsection (3)
5 of section 403.973, Florida Statutes, to read:

6 403.973 Expedited permitting; comprehensive plan
7 amendments.--

8 (3)

9 (d) Projects located in a designated brownfield area
10 are eligible for the expedited permitting process.

11 Section 32. Section 712.01, Florida Statutes, is
12 amended to read:

13 712.01 Definitions.--As used in this law:

14 (1) The term "person" as used herein denotes singular
15 or plural, natural or corporate, private or governmental,
16 including the state and any political subdivision or agency
17 thereof as the context for the use thereof requires or denotes
18 and including any homeowners' association.

19 (2) "Root of title" means any title transaction
20 purporting to create or transfer the estate claimed by any
21 person and which is the last title transaction to have been
22 recorded at least 30 years prior to the time when
23 marketability is being determined. The effective date of the
24 root of title is the date on which it was recorded.

25 (3) "Title transaction" means any recorded instrument
26 or court proceeding which affects title to any estate or
27 interest in land and which describes the land sufficiently to
28 identify its location and boundaries.

29 (4) The term "homeowners' association" means a
30 homeowners' association as defined in s. 617.301(7), or an
31

1 association of parcel owners which is authorized to enforce
2 use restrictions that are imposed on the parcels.

3 (5) The term "parcel" means real property which is
4 used for residential purposes that is subject to exclusive
5 ownership and which is subject to any covenant or restriction
6 of a homeowners' association.

7 (6) The term "covenant or restriction" means any
8 agreement or limitation contained in a document recorded in
9 the public records of the county in which a parcel is located
10 which subjects the parcel to any use restriction which may be
11 enforced by a homeowners' association or which authorizes a
12 homeowners' association to impose a charge or assessment
13 against the parcel or the owner of the parcel or which may be
14 enforced by the Florida Department of Environmental Protection
15 pursuant to chapter 376 or chapter 403.

16 Section 33. Section 712.03, Florida Statutes, is
17 amended to read:

18 712.03 Exceptions to marketability.--Such marketable
19 record title shall not affect or extinguish the following
20 rights:

21 (1) Estates or interests, easements and use
22 restrictions disclosed by and defects inherent in the
23 muniments of title on which said estate is based beginning
24 with the root of title; provided, however, that a general
25 reference in any of such muniments to easements, use
26 restrictions or other interests created prior to the root of
27 title shall not be sufficient to preserve them unless specific
28 identification by reference to book and page of record or by
29 name of recorded plat be made therein to a recorded title
30 transaction which imposed, transferred or continued such
31

1 easement, use restrictions or other interests; subject,
2 however, to the provisions of subsection (5).

3 (2) Estates, interests, claims, or charges, or any
4 covenant or restriction, preserved by the filing of a proper
5 notice in accordance with the provisions hereof.

6 (3) Rights of any person in possession of the lands,
7 so long as such person is in such possession.

8 (4) Estates, interests, claims, or charges arising out
9 of a title transaction which has been recorded subsequent to
10 the effective date of the root of title.

11 (5) Recorded or unrecorded easements or rights,
12 interest or servitude in the nature of easements,
13 rights-of-way and terminal facilities, including those of a
14 public utility or of a governmental agency, so long as the
15 same are used and the use of any part thereof shall except
16 from the operation hereof the right to the entire use thereof.
17 No notice need be filed in order to preserve the lien of any
18 mortgage or deed of trust or any supplement thereto
19 encumbering any such recorded or unrecorded easements, or
20 rights, interest, or servitude in the nature of easements,
21 rights-of-way, and terminal facilities. However, nothing
22 herein shall be construed as preserving to the mortgagee or
23 grantee of any such mortgage or deed of trust or any
24 supplement thereto any greater rights than the rights of the
25 mortgagor or grantor.

26 (6) Rights of any person in whose name the land is
27 assessed on the county tax rolls for such period of time as
28 the land is so assessed and which rights are preserved for a
29 period of 3 years after the land is last assessed in such
30 person's name.

31

1 (7) State title to lands beneath navigable waters
2 acquired by virtue of sovereignty.

3 (8) A restriction or covenant recorded pursuant to
4 chapter 376 or chapter 403.

5 Section 34. Each provision of this act will be
6 implemented to the extent that funds are specifically
7 appropriated in the General Appropriations Act.

8 Section 35. Subsection (9) of section 211.3103,
9 Florida Statutes, is repealed.

10 Section 36. This act shall take effect July 1, 2000.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/CS/SB 1406

4 Provides that businesses located in brownfield areas are
5 eligible for the set aside of 30 percent of the appropriated
6 Quick Response Training funds.

6 Broadens the brownfield redevelopment bonus tax refunds to
7 include businesses with at least \$2 million fixed capital
8 investment and that pay wages at least 80 percent of the
9 average wages in the county. Such tax refunds are capped at \$3
10 million per year.

9 Directs Enterprise Florida Inc. to develop a marketing plan
10 for brownfield redevelopment.

10 Provides a sales tax credit for business that, through the
11 creation or expansion of a business in a brownfield area,
12 generate \$1 million or more in sales taxes, can receive a tax
13 credit of up to 75 percent of the sales taxes paid in a year.

13 Defines "risk reduction" and other terms used in s. 376.301,
14 F.S. for environmental site rehabilitation.

14 Risk based correction action language is applied to additional
15 contaminated sites resulting from a discharge of pollutants or
16 hazardous substances. In addition, property owners must
17 provide certain information on such sites to local
18 governments.

17 Clarifies that the Department of Environmental Protection may
18 set alternative cleanup targets for contaminated sites under
19 certain circumstances.

19 Requires the establishment of an advisory committee to be used
20 in the redevelopment of brownfield areas.

21 Provides that persons whose property becomes contaminated due
22 to migration of contaminants from a brownfield area is not
23 subject to action to compel rehabilitation or pay cost of
24 rehabilitation of nearby sites under certain circumstances.

24 Creates a Brownfield Program Review Advisory Council to review
25 and make recommendations on the state's brownfield program.

25 Specifies that projects in brownfield areas are eligible for
26 expedited permitting.

26 Allows Community Development Districts to finance assessment
27 and cleanup costs of brownfield areas under certain
28 circumstances.

28 Redefines the term "covenant or restriction" in s. 712.01,
29 F.S. and provides an exception for title marketability for a
30 restriction or convent recorded under chs. 376 or 403, F.S.

30 Authorizes the Department of Community Affairs to accept
31 automated reports for the Hazardous Materials Planning
Program.

1 Removes appropriation to the Department of Environmental
2 Protection for the Brownfield Redevelopment Grants Program.
3 Removes appropriation to the Department of Environmental
4 Protection for the State-Owned Lands Clean Up Program.
5 Provides that all provisions of the act are to be implemented
6 to the extent funded in the General Appropriations Act.
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